





GOVERNMENT

ITS ORIGIN, GROWTH, AND FORM
IN THE UNITED STATES

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PREFACE

The majority of text-books on civil government in the United States have followed one of two methods in their treatment of the subject. One introduces the student directly to existing institutions and explains their functions, with little or no attempt to show their origin. The other begins with the more imperfect forms of local government and builds up from these to the federal system. However logical either of these methods may appear, experience has shown that the average student, conversant with American history and not that of his State, is much more familiar with the form and powers of the general government than he is with those of local governments. It was this fact that induced the authors to prepare this work on the Federal Government, in the hope that the student having thus gained an acquaintance with this, the more perfect system, would be better equipped to take up the study of his more complex State and local governments.

Furthermore, it was considered of the utmost importance, before discussing the present federal system, to familiarize the student with those general principles upon which all governments rest, and with the source and growth of free institutions in England and her colonial possessions in America. This is done in Parts First and Second. The abstract principles are defined and

explained by appropriate illustrations, and the growth of civil liberty is traced historically from its Anglo-Saxon origin to its final development in the Constitution of the United States. By these means the student has had an opportunity to apply his knowledge of American history, to understand the causes which led to the Revolutionary War and their logical result, to appreciate the force of the Declaration of Independence and the reasons for the failure of the Confederacy. He should understand why a new constitution was necessary, upon what principles it should rest, and what should be the general form and powers of the government to be established. But, if the time devoted to civics is too brief to warrant this historical examination, Part Second may be passed over without affecting the treatment of the national government.

Part Third contains a critical and analytical study of the Federal Constitution, with such historical references as are necessary to explain its provisions. The sections and clauses are inserted in the text for the convenience of the student and to insure careful study of the language of the Constitution. Unless these are so clear and simple as to demand no explanation, they are analyzed and commented on in the light of the most recent judicial decisions, official interpretations and opinions of prominent jurists; and when of peculiar interest, the language of these authorities is quoted. Besides this critical examination of the Constitution, the practical workings of the different branches of the Federal Government are explained, with especial reference to the extension or modification of their functions by statute, custom and practice.

Part Fourth contains a concise review of the principles of international and municipal law. Jurisprudence is not properly a branch of civics, but the conduct of the foreign and domestic affairs of the nation is so interwoven with questions of law that a general knowledge of this subject is essential to a right understanding of government in the United States.

The purpose of the whole work is to furnish the student with principles and facts which will be of practical value to him in the exercise of the rights of citizenship, and to present them in such a way as to impress upon him the responsibilities which rest upon every citizen of the Republic in the performance of his public duties.

The authors desire to express their thanks for the assistance and kindly criticism which they have received during the preparation of this work from Mr. Justice Harlan, Honorable John T. Morgan, Honorable John W. Foster, Andrew H. Allen, Esq., James M. Milne, Esq., and Mr. William K. Wickes.

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ABBREVIATIONS

Am. & Eng. Ency. of Law, American and English Encyclopedia of Law.

Blackstone, Commentaries.

Bouvier, Bouvier's Law Dictionary.

Cooley, Cooley on Constitutional Law.

Int. Dict., Webster's International Dictionary.

Kent, Commentaries on American Law.

Maine, Ancient Law.

Rutherford, Institutes.

Story, Commentaries on the Constitution.

Tomlins, Tomlins' Law Dictionary.

Va. Cas., Virginia Cases.

Vattel, The Law of Nations.

Italics in quotations are the authors'.

PART FIRST.

THE ORIGIN AND DEVELOPMENT OF GOVERNMENT.

CHAPTER I.

PRINCIPLES OF GOVERNMENT.

Society.—If a man did not come in contact and have relations with other men, he might live where he pleased and do what he wished; that is, his actions would be unrestricted, except as he is responsible to God. He is in a state of *Natural Liberty*. Man, however, has constant intercourse with his fellows, and his actions are affected by or interfere with theirs; thus his freedom to act as he wishes limits or is limited by the freedom of another just so far as their actions conflict. The sole inhabitant of an island would be unrestricted in his action, but two individuals would find circumstances in which their wishes would conflict, and one or the other would have to yield. This relationship is called *Society*, in which man's Natural Liberty is limited and becomes *Civil Liberty*.

NATURAL LIBERTY: The power of acting as one thinks fit, without any restraint or control, unless by the law of nature. — *Blackstone*.

CIVIL LIBERTY: Natural Liberty so far restrained by human laws as is necessary and expedient for the public good. — *Minor*.

State.—As men sustain such relations to one another, those living in one place or region unite for the purpose

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of *common* protection and interest. Such a union is termed a *State* or *Nation*, and by some writers a *Civil Society*. A state is therefore formed upon the principle of coöperation. Thus, a country attacked by enemies would be more successfully defended if the inhabitants united their efforts of resistance than if each attempted to protect only his own dwelling.

STATE; NATION: A body politic, or society of men, united together for the purpose of promoting their mutual safety and advantage by the joint efforts of their combined strength. *Cooley ; Bouvier.*

CIVIL SOCIETY: By *civil society* is usually understood a state, a nation or body politic. *Rutherford.*

Rights; Sovereignty; Law. — In every State every individual possesses certain well-defined powers or privileges, called *Rights*, which entitle him to conduct himself within certain limits in such a manner as will promote his happiness or profit. Thus, every man is entitled to the rights of “life, liberty and the pursuit of happiness”; that is, to live and to live as he pleases, to go where he pleases and to act as he pleases, provided he does not interfere with the rights of others. In order to protect the individual in the exercise of his rights and to limit the actions of each so as to give the greatest freedom to all, certain rules of conduct, called *Laws*, are necessary. To be effective, these laws must originate from a competent source ; and the individual or body of individuals having the supreme power to declare the laws in a state is called its *Sovereign*.

RIGHT: That which anyone is entitled to have, or to do or to require from others within the limits prescribed by law. *Kent.*

Rights are divided into:

A.—Political—The right to take part in the government, such as to vote and hold office.

B.—Civil.

a.—Absolute or Natural.

The right of Life.

The right of Liberty.

The right of Property.

} These belong to a person from birth.

b.—Relative.

1—Public—The right of protection by the government.

2—Private—Which grow out of the relations of

Husband and wife,

Parent and child,

Guardian and ward,

Master and servant.

SOVEREIGN: The person, body or state in which independent and supreme authority is vested. *Int. Dict.*

SOVEREIGNTY: The union and exercise of all human power possessed in a state; it is a combination of all power; it is the power to do everything in a state without accountability. *Story.*

That public authority which commands in civil society and orders and directs what each is to perform, to obtain the end of its institution. *Vattel.*

LAW: A rule of civil conduct prescribed by the supreme power in a state. *Bouvier.*

A rule of life. *Maine.*

Law in its most general and comprehensive sense signifies a rule of action; and it is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics or mechanics, as well as the law of nature and of nations. And it is that rule of action which is prescribed by some superior, and which the inferior is bound to obey. *Blackstone.*

When Law is applied to any other object than man, it ceases to contain two of its essential ingredients, *disobedience* and *punishment*. *Tomlins.*

Government.—A law will not accomplish its purpose unless all the individuals in a state, to whom it applies, obey it in the same way; and this equal obedience is, therefore, compelled by the sovereign or representatives of the sovereign. The province of a sovereign is, then, to make and enforce, directly or indirectly, the

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laws of a state ; and this act is termed *government*. The word “government” is used not only to express the *acts* of sovereignty, but also the *agents* by means of which the sovereign performs these acts. Thus, in the United States the sovereignty is vested in the people ; the President, Congress and Courts are the instruments to execute the sovereign’s will, and are called “the Government.”

GOVERNMENT (first sense): The control, direction and regulation of public or private affairs. *Am. & Eng. Ency. of Law*.

GOVERNMENT (second sense): That institution or aggregate of institutions by which a state makes and carries out those rules of action which are necessary to enable men to live in a social state, or which are imposed upon the people forming a state. *Bouvier*.

Powers of Government.—As the sovereign’s power is supreme, a government’s duties can be determined and its authority limited only by the sovereign ; and a government, being the representative of the sovereign, has power over the life, liberty and property of every individual in the state ; but this sovereign power can be *justly* exercised only under certain conditions.

The conditions under which a government may *justly* deprive him of these rights are :

1. When a person wrongfully interferes with another’s rights, the government may compel him to forfeit a part or all of his own rights. All disobedience to the laws is such an interference ; and the forfeiture imposed by the government is termed *Punishment*.

2. When the state is in danger, the government may require the life, liberty or property of any member of the state. In case of war the enforced service in the army (called *conscription* or *draft*) and the taking and using an individual’s property without his consent and

without paying him for it (called *confiscation*) are examples.

The rights of a state to preserve social order and to protect itself are superior to the rights of any individual member.

Branches of Government.—A government, whatever its form may be, executes the will of the sovereign by the exercise of three distinct functions, known as Legislative, Judicial and Executive.

The *Legislative* function consists in *making* laws ; that is, in announcing the sovereign will in regard to any matter.

The *Judicial* function consists in *interpreting* the laws in their application to individual cases.

The *Executive* function consists in *enforcing* the laws.

These distinct functions may be exercised by the government as a whole, or by two or three separate branches, which are named after the functions which they perform.

In nearly all states the executive head selects men to act as advisers and to share in the duties of enforcing the sovereign's will. These advisers are called a *Council of State*, a *Ministry*, or a *Cabinet*. In some states, as in England, this advisory body is substantially a committee of the dominant party in the legislative branch and possesses the executive authority. In such cases the Ministry is termed the "Government."

Constitution. — A government's authority may be limited and defined by certain principles, which have been declared or accepted by the sovereign. These principles of government are termed a *Constitution*. Constitutions are either unwritten, as that of Great Britain, or

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written, as those of the United States and the German Empire. In a state which has a written constitution the word is used not only to indicate the principles of government, but also the document itself.

CONSTITUTION: A fundamental law or basis of government. *Story.*

The fundamental laws of a state, directing the principles upon which the government is founded and regulating the exercise of the sovereign powers. *Bouvier.*

That by which the powers of government are limited. *1 Va. Cas. 24.*

WRITTEN CONSTITUTIONS are the product of modern ideas of civil government. Although the Grecian cities and some of the Italian republics possessed written laws in the nature of constitutions, it may be said that the "Fundamental Orders of Connecticut," drafted by Thomas Hooker and his friends in 1639 and substantially confirmed by the charter granted by Charles II. in 1662, was the first written constitution providing a complete form of government. And so republican was this instrument that it remained in force for forty years after Connecticut became an independent state.

CHAPTER II.

CLASSIFICATION OF GOVERNMENTS.

Divisions.—In considering the different forms of governments there are two general divisions : Single Governments and Confederated or Federal Governments.

A *Single Government* is that of a single state in which there is a single sovereignty.

A *Confederated* or *Federal Government* is that of a Confederacy or Union. A *Confederacy* or *Union* is formed by an agreement between two or more single, independent states for mutual protection and benefit, by which each state retains a portion of its sovereign power, but surrenders to the confederacy as much as is necessary to carry out the purposes of the agreement. The word “confederation” is used commonly as a synonym of “confederacy,” but in its strict sense the former is the *agreement* to unite, and the latter the *resulting union*.

SINGLE GOVERNMENTS.

Basis of Classification.—Single Governments are commonly classified according to the character of the sovereignties which they represent.

Classification.—From the time of the earliest writers, governments have been divided into three general classes : Monarchies, Aristocracies and Democracies.

These are based, respectively, upon the three general forms of sovereignty—(1) by an individual, (2) by a class of individuals, and (3) by all the members of a state.

1. **Monarchies.**—A Monarchy is a government by one person, in whom is the sovereignty. The ruler—that is, the individual who governs—is called a monarch, sovereign, king, emperor, etc., while those over whom he rules are called his *subjects*, and possess no part of the sovereignty. Among these is a certain class of individuals, termed *nobles*, who have been granted special privileges by the sovereign. They bear such titles as marquis, earl, viscount, baron, etc., and constitute the *nobility* or *aristocracy* of the country.

Principalities and Duchies are small monarchies, whose sovereignties are in princes and dukes.

a. **DIVISION AS TO POWER.**—Monarchies are divided into two classes : Absolute Monarchies and Limited or Constitutional Monarchies.

Absolute Monarchy.—An Absolute Monarchy is one in which the acts of the ruler are unlimited by any principles of government. Such a monarchy is also called an Autocracy—as in the case of Russia, whose ruler is often termed “the Autocrat of All the Russias”—or a Despotism, when the government is characterized by cruelty or severity. The ruler of a despotism is called a *despot* or *tyrant*.

A Theocracy, a Patriarchal Government and a Government by a Chief are also absolute monarchies.

EXAMPLES.—The Jewish government was a Theocracy ; that is, one in which God was the sovereign. Jehovah was the sole and absolute ruler of the nation. The best example of a Patriarchal

Government, in which the head of the family is its sovereign, is that of the Hebrew families before their settlement in Egypt ; thus, Abraham and Jacob were each supreme in the governing of their descendants. The Government by a Chief is the most common form among savages. The Indian tribes of America and the Negro tribes (or kingdoms, as they are often called) of Central Africa are familiar examples.

Limited Monarchy.—A Limited or Constitutional Monarchy is one in which the acts of the ruler are limited by a constitution. The limitations upon rulers vary according to the constitutions of the states over which they rule.

EXAMPLES.—Spain, Italy and Holland are examples of Limited Monarchies, while Great Britain shows to what extent the constitution may deprive the monarch of power. In the British Empire the ruler, though theoretically possessing sovereign power, is so limited by the constitution as practically to possess none. The sovereignty is in fact in the English people, and the government is in reality a democracy in the form of a monarchy.

b. DIVISION AS TO SUCCESSION.—Monarchies are also divided into Hereditary and Elective Monarchies. This division is based upon the transfer of the sovereignty from one individual to another.

Hereditary Monarchy.—An Hereditary Monarchy is one in which the sovereignty is inherited by an heir of the monarch upon his death. The rule of inheritance is fixed by custom or the constitution. The usual descent is from the father to the eldest son ; and if there is no son, then to the eldest daughter. In many European states there formerly existed what is known as the Salic Law, which prohibited females from ever inheriting the sovereignty.

Elective Monarchy.—An Elective Monarchy is one in

which the sovereignty, upon the death of the ruler, is transferred to another individual, chosen by the people or by a class, in whom the sovereignty rests until the new ruler is chosen. Thus the former kingdom of Poland was an elective monarchy, the right to choose a king belonging to the nobility. Rome, prior to 509 B.C., is another example of this class. So, too, governments by chiefs are usually elective monarchies (though sometimes hereditary), the tribe, the warriors of the tribe, or the heads of families being entitled, upon the death of a chief, to select his successor.

SUMMARY.—A monarchy is then either absolute and hereditary, limited and hereditary, absolute and elective, or limited and elective.

2. Aristocracies.—An Aristocracy is a government by a class of persons, separated from the other members of the state by reason of family, wealth or power. The sovereignty rests equally in the persons of the ruling class. The government within the class is democratic, and for this reason an aristocracy is often classed as a republic.

EXAMPLES.—The so-called Republic of Venice is the best example of an Aristocracy. The sovereignty rested in a few families, and the government was conducted through a council selected by them, who, in turn, chose the Doge and the Council of Ten, who were the actual government. Genoa, and some of the Greek cities about the seventh century before Christ, also had aristocratic governments.

HIERARCHIES.—To this class belong certain church governments called Hierarchies; the churches are composed of the clergy and of lay members, but the sovereignty

and government is reserved to the clergy. The Church of Rome, the Greek Church and the Anglican Church have hierarchical governments.

3. **Democracies.**—A Democracy is a government in which all the members of the state possess an equal share of the sovereignty. There are two general divisions of this class of government : Pure Democracies, and Representative Democracies or Republics.

PURE DEMOCRACY.—A Pure Democracy is one in which the government is carried on *directly* by all the members of a community. It is only in states of small extent that this form can exist, as it would be impossible, in a large state, for its thousands of inhabitants to meet together and decide all questions of government. At the present day this form is found only among small savage tribes.

EXAMPLES.—Such a government is carried on as follows : The tribe meets in one assembly, the affairs of the community are discussed, the action to be taken is determined upon, and one or more are appointed to execute the will of the tribe, and after this has been done the authority of those appointed to act for the tribe ceases. A remnant of this form of democracy is still to be found in the town meeting, at which every member of the town is entitled to be present and express his opinion, and the questions of town government are decided by a vote of all the electors present.

REPUBLIC.—A Representative Democracy, or, as it is more commonly called, a Republic or Commonwealth, is one in which the government is *delegated* to a body of men elected from time to time by the *citizens*, as the members of the state are called, who have an equal voice in selecting those who are to act for all in the government.

Government in a Republic.—In a republic the three functions of government are usually administered by separate branches—the Legislative, by Representatives elected by the people ; the Judicial, by men, termed Judges or Justices, elected by the people or appointed by the Executive Branch of the government ; and the Executive, by a President elected by the people or chosen by their representatives. In most republics the Executive has a limited right, called the *right of veto*, to disapprove the acts of the Legislature ; the Judiciary usually determines whether the acts of the Legislature and Executive comply with the principles declared by the constitution ; and the Legislature has power to remove the Executive and the Judiciary in case they violate the constitution. The three branches, therefore, though separate, are not absolute in the exercise of their functions, but are responsible to some other branch of the government.

EXAMPLES.—France is an example of a Republic. There is a single sovereignty, which rests in all the people. The three branches of government are distinct. The legislative is elected by the people, and divided into two houses, called a Senate and a Chamber of Deputies. The Republic is divided into Departments, (*each*) administered by a prefect, who is nominated by the central government, and the Departments are subdivided into Arrondissements, Cantons and Communes. The judges of the different courts are appointed by the President.

Chile is another example of a Republic with a single sovereignty. It also has a President, a Senate and a Chamber of Deputies elected by the people. For purposes of administration the Republic is divided into Provinces, and these into Departments, whose official heads are appointed by the central government, as are also the judiciary.

Ecuador and Colombia are other instances of Single Republics.

CONFEDERATED OR FEDERAL GOVERNMENTS.

Classification.—Confederated or Federal Governments, being based upon an agreement between sovereign and independent states, adopt the character of the governments of these states. Confederacies may be divided into two classes: Monarchical Confederacies and Republican Confederacies.

1. **MONARCHICAL CONFEDERACIES.**—A Monarchical Confederacy is one composed of two or more monarchies, and necessarily assumes the form of a limited monarchy, as the sovereign power is confined to such powers as are surrendered to it by the individual states which form the confederacy.

EXAMPLES.—The German Empire is a Monarchical Confederacy, composed of four kingdoms, six grand duchies, five duchies, seven principalities and three free towns. By its constitution the sovereignty, for certain purposes, is given to two distinct branches, the executive and the legislative. The former is in the person of a President, with the title of the German Emperor, who is by the constitution the hereditary king of Prussia, the largest and most influential state of the Confederacy. The legislative authority is in the Bundesrath, or Federal Council, appointed by the governments of the individual states, and the Reichstag, or Diet, elected by the people. There is one federal court for hearing appeals, whose judges are appointed by the Emperor. All other courts are directly under the appointment and control of the different monarchies which form the Confederacy. Each state has also its own government, with an hereditary monarch at its head, and is supreme in all matters not surrendered to the Imperial Government by the constitution.

Austria-Hungary is also a Monarchical Confederacy, composed of the Empire of Austria and the Kingdom of Hungary, over which there is a common monarch with the titles of Kaiser of Austria and King of Hungary. To the Federal Government is

surrendered the charge of foreign, military and naval affairs, finance, etc., while in all other matters the governments of the two monarchies are separate, except that the executive authority is in the one ruler. In this it differs from the German Empire, in which each state has its own monarch. Austria and Hungary are both limited monarchies, with legislative assemblies of their own. The federal legislation is by sixty delegates from each monarchy, chosen by their respective assemblies from their own members. These Delegations, as they are called, meet separately, once a year, and propose federal laws, which are submitted to the Delegation from the other monarchy. If a law is not agreed to after three interchanges of the views of each Delegation, then the one hundred and twenty delegates meet in one body and decide it.

The famous Iroquois Confederacy, or the Confederacy of the Six Nations, is another example of a Monarchical Confederacy. It was composed of six Indian tribes whose villages extended across the central part of what is now New York State. Each tribe was under the government of hereditary sachems, but the Confederacy, in matters relating to the welfare of all the tribes, was governed by a grand council of fifty sachems, any of whom could demand a meeting of the council. In military affairs, however, two hereditary chiefs of the Seneca tribe commanded the warriors of the Confederacy.

2. REPUBLICAN CONFEDERACIES.—A Republican Confederacy is governed in the same general way as a single republic, except that the sovereignty of the federal government is limited to those matters which affect the general welfare of all the states which form the confederacy, and which have been delegated to it by the states.

EXAMPLES.—The Swiss Confederation is a Confederacy of twenty-two separate republics, called Cantons. By its constitution the legislative and executive authority of the Confederation is in a Federal Assembly composed of two houses, the State Council and the National Council. The former has forty-four members, two from each Canton, and the latter consists of representatives elected by the people, one representative for every

20,000 inhabitants. The executive authority is delegated by the Federal Assembly to a Federal Council of seven members elected for three years. The President and Vice-President of this Council are selected each year by the Federal Assembly, and no member of the Council can be President two years in succession. It is the duty of the Federal Council to propose laws and to execute them when passed by the two houses. The Federal Council may, when it desires, and must, when petitioned by 30,000 citizens, submit a law to all the people, who may, by vote, adopt, amend or reject it. This principle of submission to the people is called the *referendum* and is a modified form of Pure Democracy. The act of petitioning by the people for a *referendum* is termed *initiation*. There is only one federal court, whose jurisdiction is limited. Each Canton has its own judges ; and, in all matters not delegated to the Federal Government by the constitution, it is supreme and has its own independent, republican government.

The United States has a government of this class, although in some particulars it possesses the character of a single republic. This likeness and difference will be shown when this government is studied more in detail.

The Federal Principle.—The principle which underlies this form of government is that each state of the union possesses the sovereignty in all matters which affect itself alone, while in all matters which relate to two or more of the states, or which have to do with foreign nations, the sovereign power is in the Federal Government.

SINGLE GOVERNMENTS.

- | | | | | | | |
|---------------|---|-------------------------|---|-----------------------------|---|-------------|
| 1. Monarchies | { | <i>As to Power</i> | { | Absolute | { | Autocracy. |
| | | | | | | Despotism. |
| | | | | | | Theocracy. |
| | | | | | | Patriarchy. |
| | | | | | | By a Chief. |
| | | | | Limited, or Constitutional. | | |
| | { | <i>As to Succession</i> | { | | | Hereditary. |
| | | | | | | Elective. |
2. Aristocracies. *Hierarchies.*
3. Democracies { *Pure.*
Representative, or Republican.

CONFEDERATED GOVERNMENTS.

1. Monarchical Confederacies.
2. Republican Confederacies.

DIVISIONS OF GOVERNMENT IN A REPUBLIC.

1. Legislative, by Representatives *elected* by People.
2. Executive, by President *elected* by { People.
Representatives.
3. Judicial, by Judges { *elected* by People.
appointed by Executive.

PART SECOND.

RISE OF AMERICAN INSTITUTIONS.

CHAPTER I.

SOURCE OF AMERICAN INSTITUTIONS.

The Anglo-Saxons.—The principle of civil liberty, which is the important element in our system of government, was already strongly developed among the Angles and Saxons when they conquered England in the fifth century. They were believers in the rights and powers of the individual. They elected their own chiefs and had a voice in the government of their clans. Under their rule the people in their various councils made laws and treaties, levied some taxes, raised land and sea forces, and exercised many other legislative and also judicial powers. These powers, although modified by changing conditions, became firmly settled under the successive Saxon kings in the form in which they are historically known as the “Laws of Edward the Confessor.”

Effect of Norman Conquest.—The Norman conquest wrought a change. The conquerors did not possess the Saxon ideas of liberty and equality. To them the king was the state and source of all law, and in the confusion of this change in ideas of government there followed con-

fiscation of property, oppressive laws, and the practical enslavement of the conquered people through the introduction of Feudalism.

These conditions continued during the reigns of “The Conqueror” and William II. But Henry I., fearing the effect of popular discontent, promised by a “Charter of Liberties,” granted in 1101, to restore in part the “Laws of Edward the Confessor.” This Charter is important as the first limitation upon the powers of the crown.

Magna Charta.—A century later (June 15, 1215) the great instrument of English liberty, known as Magna Charta, was wrung from King John by the people and nobles, who had revolted against his despotic rule. Of the sixty-three provisions of this great document, those which are important in the study of our government are the following :

TAXES.—No scutage* or aid† shall be imposed in our kingdom unless by the general council of our kingdom ; except for ransoming our person, making our eldest son a knight and once for marrying our eldest daughter ; . . .

GENERAL COUNCIL.—And for holding the general council of the kingdom concerning the assessment of aids . . . we shall cause to be summoned the archbishops, bishops, abbots, earls and greater barons of the realm, singly by our letters. And furthermore, we shall cause to be summoned generally . . . all others who hold of us in chief, for a certain day . . . and to a certain place ; and in all letters of such summons we will declare the cause of such summons.

By these provisions the taxing power was placed in

***SCUTAGE:** Tax imposed instead of military service.

†**AID:** Feudal tax paid by the vassal to his lord.

the people, and definite means were prescribed for its exercise.

PERSONAL RIGHTS.—No freeman shall be taken or imprisoned or disseised* or outlawed, or banished, or anyways destroyed, nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers† or by the law of the land.

We will sell to no man, we will not deny to any man, either justice or right.

A freeman shall not be amerced‡ for a small offense, but only according to the degree of the offense ; and for a great crime according to the heinousness of it.

These provisions were to protect the subject in his personal freedom by guaranteeing that punishments should be proportionate to the enormity of the crime.

PROPERTY RIGHTS.—Neither shall we nor our bailiffs take any man's timber for our castles or other uses, unless by the consent of the owner of the timber.

This provision was intended to protect the subject in his property, and is so manifestly just that it has continued in force to the present day.

House of Commons.—The next development in popular government was the establishment of the House of Commons, which, like Magna Charta, was the result of a conflict between the king and the barons, in which the latter were successful. Henry III. and his son having been taken prisoners, the government passed temporarily into the hands of Simon de Montfort, the leader of the rebels, who, to strengthen himself, summoned a parlia

*DISSEISED: Unlawfully deprived of property.

†PEERS: Equals, of the same rank.

‡AMERCED: Punished at the discretion of a court.

ment (1265), in which he gave seats not only to those entitled to them under Magna Charta, but also to two representatives from each town or borough. This was the first House of Commons, the representative body of the common people. The example thus set was not immediately followed. But in 1295 Edward I., in order to obtain supplies for wars in France and Scotland, summoned a parliament, to which he called "two burghers from every city, borough and liege-town to sit with the nobles and barons," stating in the summons that "what concerns all should be approved by all." This was the permanent establishment of the House of Commons.

Rights of Colonists in America.—These were the governmental rights to which Englishmen were entitled at the time of the colonization of America, and to these rights, as also to those subsequently granted, the settlers in America became entitled as fully as the inhabitants of London or other English towns. For in the charter under which the Plymouth and London Companies were organized the king stated that the colonists and their descendants should

have and enjoy all liberties, franchises and immunities of free denizens and natural subjects, within any of our other dominions, to all intents and purposes as if they had been abiding and born within this our realm of England, or in any other of our dominions.

Habeas Corpus Act.—Of the rights subsequently granted, but two will be noticed. First, the Habeas Corpus Act. From the time of Magna Charta it had been a principle of law that a prisoner could demand from a court an order, or *writ*, compelling his jailer to produce him before

the court for the purpose of determining whether he was legally imprisoned. This did not apply in cases of arrest by the Royal Council, and as a result many persons had been illegally and arbitrarily imprisoned. To check this abuse, Parliament, in 1679, passed the Habeas Corpus Act, by which it was provided that no judge should refuse the writ to any prisoner, or to order his release from confinement if such confinement was illegal.

Bill of Rights.—The other important measure is the Bill of Rights. When James II. was deposed, and William and Mary were called to the throne, there was annexed to the Act, which determined the future succession, a statement of rights which definitely fixed the limits of royal power and stated the principles of English constitutional government. After a recital of complaints the Bill continues:

That the pretended power of suspending of laws, or the execution of laws by regal authority, without consent of parliament, is illegal.

That it is the right of the subject to petition the king; and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the kingdom in time of peace, unless it be with the consent of parliament, is against law.

That the freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament.

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

DATES OF PRINCIPAL EVENTS IN RISE OF
AMERICAN INSTITUTIONS.

- 449-455** Conquest of Britain by the Saxons and Angles.
- 1050-65** Laws of Edward the Confessor.
- 1066** Norman Invasion of England.
- 1101** Charter of Liberties.
- 1215** Magna Charta.
- 1265** First House of Commons.
- 1295** House of Commons made Permanent.
- 1297** Confirmation of the Charter by Edward I.
- 1606** Charter of the Plymouth and London Companies.
- 1679** The Habeas Corpus Act.
- 1689** Bill of Rights.

CHAPTER II.

GROWTH OF AMERICAN INDEPENDENCE.

Cause of American Revolution.—The American Revolution is traceable to one cause—the violation of the rights and liberties of Englishmen, inherited by and guaranteed to the colonists. Until the cession of Canada to England the colonists had been allowed to exercise all the rights of Englishmen, for the menace of the French on the north and west was sufficient to warn the British ministry that any trouble or irritation would weaken its power in the New World. But with the fall of Quebec three measures were proposed which were intended to give the British Government more complete control over the colonists. These were the enforcement of the Acts of Trade, the taxation of the colonies and the quartering of troops in America.

Acts of Trade; Writs of Assistance.—The Acts of Trade were statutes which, first enacted during the reign of Richard II., had been so extended that at this time they practically prohibited the colonists from exporting their produce in any other than English ships, from importing goods from any other than English ports, or from manufacturing goods which could be made in England. While the original purpose of these measures was to destroy the Dutch trade with the colonists, it had developed into a

scheme to make of the colonies sources of supply for the markets of England and consumers of her products; and the colonists, appreciating this, continued their foreign trade by smuggling.

To detect and punish smugglers, recourse was had to Writs of Assistance, which were warrants issued by a court empowering officers to enter and search any premises for the purpose of finding smuggled goods. This action of the Government produced violent opposition throughout the colonies. James Otis declared that it was an invasion of private liberty such as had “cost one king of England his head and another his throne.” He argued that the colonists were not bound to obey laws in the making of which they had no voice, and that the forcing of the colonists to pay exorbitant duties upon goods not imported from England was “taxation by a foreign legislature without our consent.”

Quartering of Troops; Stamp Act.—The excitement over the Writs of Assistance had not ceased before the ministry determined to station permanently in the colonies a force of ten thousand soldiers to aid the colonial governors in the enforcement of the laws. For the purpose of partially defraying the expense of these garrisons it was further proposed to levy a tax in the form of a stamp duty, and in 1765 the Stamp Act was passed. Its enactment was the signal for violent popular demonstrations in the colonies, and as a result a congress of delegates from Massachusetts, South Carolina, Pennsylvania, Rhode Island, Connecticut, Delaware, Maryland, New Jersey and New York met at the city of New York, October 7, 1765. This meeting, known as the “Stamp Act Con-

gress,"* lasted two weeks. It drew up a Petition to the English people, and a Declaration of Rights and Grievances, in which were set forth the rights of the colonists to the liberties of Englishmen, among which was the right to tax themselves; it complained of the Stamp Act and asked for a repeal of the Acts of Trade. But there was no suggestion of revolution. The determination of the colonists to protect their rights, and the support of a strong party in Parliament, compelled the repeal of the Stamp Act in 1766, but the obnoxious principle underlying it was preserved; for with the Act of Repeal was passed the "Declaratory Act," whereby it was asserted that the colonies were

subordinate unto and dependent upon the Imperial Crown and Parliament of Great Britain, and that Parliament hath, and of right ought to have, full power to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects to the crown of Great Britain, in all cases whatsoever.

Townshend Acts of 1767.—It was not long before the threat implied in this declaration was carried out. In 1767 Townshend, Chancellor of the Exchequer, who was opposed to a conciliatory policy, obtained the passage of Acts which placed duties on wine, oil, fruit, glass, paper,

* There had been prior meetings for common purposes. In 1643 Massachusetts Bay, Connecticut, Plymouth and New Haven had joined under the name of the "United Colonies of New England" in "a firm and perpetual league of friendship and amity for offense and defense . . ." Again, during the French and Indian War, representatives from the New England Colonies, and from New York, Pennsylvania and Maryland met at New York to devise plans of union and defense.

lead and teas, and at the same time revived the Writs of Assistance. These enactments met with the same reception as the Stamp Act. The colonists recognized in them the hateful principle of taxation without representation. The Virginia Assembly declared the tax illegal and protested against its enforcement, and later adopted a pledge not to buy any of the goods upon which such taxes were levied. Similar action was taken in several other colonies.

Coercive Action of British Government.—The king, enraged by the temper of these petitions and resolutions, declared the originators to be rebellious and guilty of treason, and measures were adopted to repress the expression of such sentiments. The colonial governors were directed to prevent public assemblies, and troops were sent to Boston and New York. The danger of this policy was, however, felt in England, and at length, in April, 1770, Parliament repealed the provisions of the Townshend Acts, except such as related to the duty on tea, which was made so low as to render smuggling unprofitable.

Committees of Correspondence.—Meanwhile the agitation continued, and open conflict seemed unavoidable. Samuel Adams, who saw the probability of war, introduced into the Boston town meeting in November, 1772, a resolution that “a committee of correspondence be appointed to state the rights of the colonists . . . and also request of each town a free communication of their sentiment on this subject.” The idea was received everywhere with favor. Similar committees were selected in other colonies, who spread the doctrine of liberty among

the people and formed an incipient union by constant intercourse upon all matters of public interest.

The Tea Agitation.—Still the ministry was blind to the dangers, and upon the demands of the East India Company determined to enforce the tea tax. For this purpose, in the fall of 1773, cargoes of tea were shipped to New York, Boston, Philadelphia and Charleston. At Philadelphia and Charleston the cargoes were either returned or stored in damp cellars. At Boston, on the night of December 16, 1773, the ship was boarded, the cargo broken open and the tea emptied into the harbor. This was called the “Boston Tea Party.” At New York a similar demonstration was made by the “Sons of Liberty.”

Retaliation by Great Britain.—Retaliatory measures were at once taken by Parliament. The principal ones were aimed at Massachusetts, which, possessing a charter government, was deemed by the ministry as being most hostile to British interests. These closed the port of Boston, annulled the charter of the colony and placed the government in the hands of a governor and a council selected by him, and provided for the further quartering of troops in Boston. Another Act provided for the trial in England of all soldiers, magistrates or revenue officers charged with murder.

First Continental Congress.—In view of the dangers threatened by such enactments the lower house of the Massachusetts legislature called upon the other colonies to join in a congress to meet at Philadelphia, and in response to the call delegates from the different colonies met, September 5, 1774, in what is known as the “First

Continental Congress.” Among the delegates were Samuel and John Adams, John Jay, Patrick Henry and George Washington. They adopted a Declaration of Rights, and prepared a Petition to the king, praying for a redress of wrongs. They also presented an address to the same effect to the people of Great Britain, united in a pledge to import no goods from England or her colonies, provided for a second Continental Congress and adjourned October 26, 1774.

Second Continental Congress.—These measures, however, failed of their purpose, and the colonists determined upon armed resistance. April 19, 1775, the first engagement was had at Lexington, and the news of it was the signal for a general uprising. May 10, 1775, the British garrison at Ticonderoga surrendered to Ethan Allen, and the same day the Second Continental Congress assembled at Philadelphia. On June 7, 1776, Richard Henry Lee of Virginia introduced into the Congress the following resolution: “Resolved—That these United Colonies are, and of right ought to be, free and independent States ; that they are absolved from all allegiance to the British Crown ; and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved.” On June 11, 1776, Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman and Robert R. Livingston were appointed a committee to prepare a suitable declaration of grievances and a statement of the attitude of the colonies. This committee made its report July 1st. The next day the Lee resolution was passed, and on the Fourth of July the Declaration of Independence was adopted.

Declaration of Independence.—Thus the separation of the colonies from England was made complete. An examination of the Declaration of Independence discloses no new governmental principles. (See Appendix I.) It is a simple statement of the inherent rights of the people, which they had never surrendered, together with a plain narration of the wrongs which had compelled their act. It is a concise exposition of the true principles of government, and has been through the existence of the Union a great and powerful factor in the maintenance of a pure national life.

DATES OF PRINCIPAL EVENTS IN THE GROWTH OF AMERICAN INDEPENDENCE.

- 1645-63** Navigation Acts.
- 1760** George III. crowned.
- 1761-64** Writs of Assistance.
- 1763** Peace of Paris.
- 1765** Stamp Act.
- 1765** Act for the Quartering of Troops.
- 1765** Colonial Congress.
- 1766** Repeal of Stamp Act.
- 1766** Declaratory Act.
- 1767** Townshend Revenue Acts.
- 1770** (March 5) Boston Massacre.
- 1770** Repeal of Townshend Duties, except on Tea.
- 1773** (December 16) Boston Tea Party.
- 1774** (September 5) First Continental Congress.
- 1775** (April 19) Battle of Lexington.
- 1775** (May 10) Second Continental Congress.
- 1776** (July 4) Declaration of Independence.

CHAPTER III.

THE REVOLUTIONARY GOVERNMENT.

MAY 10, 1775, TO MARCH 1, 1781.

The Revolutionary Government of Congress.—A revolutionary government is one formed to carry out the will of those who claim the sovereignty of a nation in opposition to those who possess it. Such a government usually assumes an authority not delegated to it, but acts in the interests of those whom it represents, as necessity requires. This was the character of the government established by the Second Continental Congress. Its sole object was resistance to the tyrannical measures of the British Crown. To accomplish this, it created committees upon military and Indian affairs and foreign relations, established a general treasury, appointed Washington commander-in-chief of the Continental Army, recommended to the colonial governments a uniform system of militia and provided for a continental postal service. To furnish revenue, paper money, known as “Continental Currency,” was issued; for the large sums necessary to carry on the war could not be borrowed at home and a foreign loan had not as yet been proposed.

Articles of Confederation.—But the Congress saw that its government was revolutionary and inadequate to meet the obligations which belong to sovereign states. There-

fore, on the same day that the committee was appointed to draft the Declaration of Independence, another was selected, with Samuel Adams as its chairman, "to prepare and digest the form of a confederation to be entered into between these colonies." This committee made its report on July 12, 1776, but it was not until November, 1777, that a form of government was agreed upon. Further delay was occasioned by the examination of the proposed plan by the state governments, and it was not until July 9, 1778, that the Articles of Confederation were formally adopted. Then they were signed by the delegates of eight States—New Hampshire, Rhode Island, Massachusetts, Connecticut, Pennsylvania, New York, Virginia and South Carolina. The North Carolina delegates signed on the 21st, and three days later, those from Georgia. New Jersey ratified November 26, 1778 ; Delaware, May 5, 1779 ; and Maryland, March 1, 1781.

Land Claims Delay Ratification.—The cause of the delay on the part of New Jersey, Delaware and Maryland grew out of a state of affairs which became of the greatest moment to the future history of government in the United States. Along the western frontier of the States lay great tracts of unoccupied lands. On the separation of the colonies from England, the States whose charters had extended their territory indefinitely west claimed, as the successor of the British Crown, the sovereignty of these vacant lands as far as the Mississippi River. Against these claims Maryland in particular vigorously protested, refusing to enter the Confederacy unless the sovereignty over these lands was made general, and de-

claring that if independence was secured it would be by the efforts of all the States, and, therefore, this territory should become the common property of the Confederacy.

New York's Action.—Affairs were in this condition when New York, in September, 1780, ceded to the Confederacy all its claims to the lands lying westward of its present boundary. Induced by the sacrifice of New York, and fearing that England would be encouraged by the apparent dissensions among the States, the Maryland Legislature ratified the Articles in January, 1781, and in the same month Virginia ceded to the Confederacy all her claims to any part of the lands which are known as "The North-West Territory." The formal act of subscribing to the Articles by the Maryland delegates in Congress occurred March 1, 1781, and the following day the Congress assembled under the Confederation.

DATES OF PRINCIPAL EVENTS RELATING TO ARTICLES OF CONFEDERATION.

- | | | |
|-------------|----------|---|
| 1776 | June 11, | Committee appointed on Plan of Government. |
| | July 12, | First Report of Committee. |
| | Aug. 20, | Second Report of Committee. |
| 1777 | Nov. 17, | Circular Letter sent to States. |
| 1778 | July 9, | Articles of Confederation signed by New Hampshire, Rhode Island, Massachusetts, Connecticut, Pennsylvania, New York, Virginia and South Carolina. |
| | July 21, | Articles signed by North Carolina. |
| | July 24, | " " " Georgia. |
| | Nov. 26, | " " " New Jersey. |
| 1779 | May 5, | " " " Delaware. |
| 1781 | March 1, | " " " Maryland. |
| | March 2, | Congress meets under Articles. |

CHAPTER IV.

OUTLINE OF THE ARTICLES OF CONFEDERATION.

1. Form and Purposes of the Union.—The form of the union was a confederacy, in which each State retained its sovereignty and every power not expressly delegated to the United States. The purposes of the Union were the common defense, the security of liberty and mutual and general welfare.

2. The System of Government Established.—All the functions of government were to be exercised by a Congress of delegates, each State being represented by not more than seven or less than two (delegates) appointed annually; but in the proceedings of the Congress each State could cast only one vote, regardless of the number of its delegates. There was no provision for executive and judicial branches apart from the legislative.

During a recess of Congress, which could not exceed six months, “The Committee of the States,” consisting of one delegate from each State, was empowered to exercise certain of the powers of Congress, but no power which required the assent of nine States could be so exercised.

3. The Powers of the Government.—The most important legislative powers were to declare war, appropriate money, borrow money and issue bills of credit, agree on

the number of land forces and make requisition upon each State for its proportion, determine the number of naval forces, and build and equip a navy. These powers could only be exercised by the assent of *nine* States. Besides the foregoing, the Congress, by a *majority* of the States, could make peace, establish rules concerning captures on land and sea, regulate coinage, fix a standard of weights and measures, make rules for the government of the army and navy, ascertain the money necessary for public expenses and apportion among the States the amounts which they must pay into the common treasury.

The most important executive powers of Congress were to appoint a commander-in-chief of the army and to enter into treaties with foreign nations, provided no treaty of commerce should interfere with the right of each State to fix duties and imposts ; and to exercise these powers the assent of *nine* States was required. Congress could also, by a *majority* of the States, send and receive ambassadors, establish post-offices and exact postage, appoint civil officers and officers of the army and navy except regimental officers, direct the operations of the army and navy, and organize and conduct the common treasury of the Confederacy.

The powers of the Congress relating to judicial matters were limited to the establishment of courts for the trial of piracy and felonies committed upon the high seas and to the determination of questions of boundary and jurisdiction between two or more States.

4. Restrictions upon the Government.—Besides the limitation of the government to those powers conferred upon it by the Articles, Congress was prohibited from granting

any titles of nobility, and its officers were forbidden to receive a reward, office or title from a foreign ruler or state.

5. The Restrictions upon and Requirements of the States.

—Without the consent of the United States no State could send or receive ambassadors or enter into any agreement or treaty with a foreign state, lay any imposts or duties which would interfere with any treaty previously made by the United States, have land or naval forces in time of peace, engage in war unless actually invaded or to prevent an Indian outbreak, and grant letters of marque and reprisal except after a declaration of war by the United States or when a State was infested by pirates.

Each State was required to grant to the people of every other State the same privileges as those possessed by its own, to surrender fugitives from justice upon proper requisition, to give full faith and credit to the records, acts and judicial proceedings of the other States, to levy and collect the taxes apportioned to it by the Congress for the purposes of the union and pay the same into the common treasury.

6. Other Provisions.—The Articles also provided for the admission of Canada into the Union, pledged the public faith to the payment of money borrowed and debts contracted by the revolutionary government, declared that the union so formed should be perpetual and that the Articles could only be amended by an agreement of the Congress and the confirmation of the amendment by the legislature of every State.

ANALYSIS OF ARTICLES OF CONFEDERATION.

Powers of Congress *requiring the assent of 9 States, and which could not be exercised by the Committee of States,*

<i>Legislative</i>	{	Declare war.	} Money.
		Appropriate	
		Borrow	
<i>Executive</i>	{	Organize army and navy.	}
		Make treaties.	
		Appoint commander-in-chief.	
<i>Judicial</i>	{	Organize admiralty courts.	}
		Determine boundaries between States.	

Powers of Congress *requiring the assent of 7 States, which could be exercised by Committee of States when Congress was not in session.*

<i>Legislative</i>	{	Make peace.	}
		Make rules as to captures.	
		Regulate coinage, weights and measures.	
		Pass military laws.	
		Estimate expenses.	
<i>Executive</i>	{	Determine method of land valuation.	}
		Send and receive ambassadors.	
		Control the postal service.	
		Appoint officers of the army and navy.	
		Direct military operations.	
	{	Conduct the common treasury.	}

Limitations on States.

<i>Restrictions</i>	{	Send or receive embassies.	}
		Make treaties.	
		Lay imposts or duties contrary to treaty.	
		Have an army in times of peace.	
		Engage in war.	
<i>Requirements</i>	{	Grant letters of marque in times of peace.	}
		Grant equal rights to citizens of other States.	
		Surrender fugitives of justice from other States.	
		Recognize records of other States.	
		Keep a disciplined militia.	
	{	Levy and collect proportion of taxes.	}

CHAPTER V.

THE GOVERNMENT UNDER THE ARTICLES OF CONFEDERATION.

MARCH 2, 1781, TO MARCH 4, 1789.

Condition at Close of War.—The independence of America having been recognized in 1783, the inefficiency of the government became evident to the statesmen of the Confederacy. The greatest weakness lay in the fact that the functions of government were not performed by separate branches, but were all vested in the Congress, which, while it possessed sufficient legislative powers, had not the executive power to put them into effect. It could declare war, but possessed no means to carry it on ; it could make peace, but could not compel the States to comply with the terms ; it could appropriate money, but had no power to levy and collect taxes ; and, finally, there was no provision for the control of the “North-West Territory ” or for the regulation of commerce.

Attempts to Correct Articles.—Immediately upon the termination of the war, attempts were made to rectify the faults of the Articles ; but these were futile, as each State turned to the advancement of its local interests and opposed any agreement to surrender, for the benefit of all, any rights which it possessed. The Confederacy was gradually disintegrating—the States drawing apart from

each other. There were rumors of a division into two or more confederacies, and even a monarchy was suggested.

The Public Lands.—One thing, however, tended to hold the Union together—the ownership of the public lands. Any State withdrawing from the Confederacy would lose its interest in the Western Territory, whose great resources were then beginning to be realized. Besides this, Congress in its struggle to maintain the credit of the nation had sold portions of this land to meet the public debt.

Commerce.—The recognized necessity of uniform commercial relations was, however, the immediate cause of the strengthening of the union. The lack of power in Congress to regulate trade had left the States to act separately in this important matter. The result was a great variance in the laws, and commerce became so demoralized that the Virginia Legislature called upon the other States to send delegates to a convention at Annapolis in September, 1786, to see if some plan could not be devised for the establishment of a uniform system of trade regulations among all the States.

Annapolis Convention.—At the convention which met in response to this appeal, delegates from only five States were in attendance, and the object for which it was called was not attained. But the discussions which were held disclosed the fact that the weakness of the government was generally recognized, and led to a resolution suggesting a convention of delegates from all the States “to devise such further provisions as might appear necessary to render the constitution of the Federal Government adequate to the exigencies of the Union.”

Constitutional Convention.—After considerable delay

Congress adopted the suggestion and issued a call to the States to send delegates to a convention to meet at Philadelphia, May 14, 1787. It was not, however, until the end of May that the convention was formally opened, but from that time the delegates from the twelve States represented (Rhode Island having failed to send a delegation) were in continuous session until September 17, 1787, when they completed the scheme of government which is known as the Constitution of the United States.

CHAPTER VI.

THE STATE GOVERNMENTS.

Colonial Governments; Provincial.—Colonial governments are usually divided into three classes: Provincial (Royal or Crown), Proprietary and Charter. New Hampshire, New York, New Jersey, Virginia, the Carolinas and Georgia had Provincial Governments. They possessed no charters or grants, but were under the control of royal governors, whose only limitations were their commissions and the will of the crown, who appointed and removed them at pleasure. There was also a council appointed by the crown or governor, which aided the governor in his duties and formed the upper house of the colonial legislature. The governor was also authorized to summon an assembly, chosen by the people of the colony, which formed the lower house of the legislature. These two legislative houses had the right to make laws concerning local matters, but their acts could be vetoed by the governor and annulled by the crown. The governor, as the royal representative, possessed exceptional powers. He could remove members of the council and prorogue, or dissolve, the assembly and order another election.

Proprietary.—Maryland, Pennsylvania and Delaware had Proprietary Governments; that is, the rights of local government were granted by the crown to a certain indi-

vidual termed the “proprietary” or “lord proprietary.” The form of government was similar to that of the royal colonies. The proprietary either appointed a governor or acted in that capacity himself, selected a council and authorized the assembling of representatives for local legislation. In Maryland the acts of the proprietary government were not subject to royal approval; but over those of Pennsylvania and Delaware the crown possessed a veto power.

Charter.—The Charter Governments comprised Massachusetts, Connecticut and Rhode Island. The charters, which were granted by the crown, were, in fact, written constitutions, which the sovereign was bound to respect, and established a form of government similar in many respects to the two classes already described. In Massachusetts the governor was appointed by the crown, but the people were represented by an assembly chosen by them, and their representatives had the privilege of selecting the governor’s council. The people of Connecticut and Rhode Island possessed the same rights as those of Massachusetts, with the further privilege of electing their own governors. In fact, they were true republics, with whose local government the English sovereign could not legally interfere.

Change to State Governments.—With the opening of the War for Independence all the colonies except Rhode Island and Connecticut organized provisional governments similar to those with which they were familiar, substituting elections by the people in place of appointments by the crown or the lord proprietary.

Character of the New Governments.—As a consequence

of the hatred which had been engendered against the royal governors during the period immediately preceding the war, the powers of the chief executive in the new governments were much more limited than under the colonial governments. There was such strong opposition to the idea of a single executive that at first in Pennsylvania, Delaware, New Hampshire and Massachusetts a council was substituted in place of a governor, and it was not until 1792 that Delaware recognized that a governor elected by the people was not a menace to liberty. The assembly of representatives, chosen by the people, which was found in every colony, was retained without change, as it was clearly republican in character. The governor's council became the senate, elected by the people or by their representatives, but to which no one could be chosen unless he possessed certain qualifications. At first, in Pennsylvania and Georgia the entire legislative power was vested in the assembly, but later these States adopted the dual form of legislature.

The English System the Model.—These State governments were in their general form modeled after the English system, as it was understood by the colonists. The governor resembled the English ruler. The upper house of the legislature, like the House of Lords, was supposed to represent the land owners and wealthy colonists, as the “Lords” represented the English nobility. The lower house, like the House of Commons, was composed of representatives of all classes, without distinction as to rank or social position. There was this difference, however, between the two systems. In England the King and the “Lords” were hereditary, and the “Commons”

only were chosen by the people, while in the States all officers were selected by popular vote ; in England the sovereignty was in the monarch, while in America it was in the people.

ANALYSIS OF COLONIAL GOVERNMENTS.

Provincial (New Hampshire, New York, New Jersey, Virginia, the Carolinas and Georgia).

Legislative { Council appointed by { Crown
or
Governor.
Assembly chosen by Colonists.
Veto by Governor.
Veto by Crown.

Executive : Governor appointed by the Crown.

Judicial : Judges appointed by the Crown.

Proprietary (Maryland, Pennsylvania and Delaware).

Legislative { Council appointed by Lord Proprietary.
Assembly chosen by Colonists.
Veto by Governor and in some cases by Crown.

Executive { Lord Proprietary
or
Governor appointed by Lord Proprietary.

Judicial : Judges appointed by Lord Proprietary.

Charter (Massachusetts, Connecticut and Rhode Island).

Legislative { Council selected by Representatives.
Assembly chosen by Colonists.
Veto by Governor.

Executive : Governor { Appointed by Crown
or
Selected by Colonists.

Judicial : Judges { Appointed by Crown
or
Selected by Colonists.

CHAPTER VII.

THE CONSTITUTIONAL CONVENTION.

Prominent Delegates.—Of the fifty-five delegates who took part in the Constitutional Convention, three are particularly worthy of mention. These are George Washington, James Madison and Alexander Hamilton.

Washington.—On the organization of the Convention, Washington was unanimously chosen president. His difficulties as commander-in-chief and the progress of events since 1783 had convinced him that some decisive action was necessary to preserve the Union. His views as to the necessary steps were general ; he left the detail to others. But he possessed a profound comprehension in applying governmental principles to present needs, while his experience during the war had broadened his views, so that they were national rather than local. In fact, he seemed to belong to all the States, and not to Virginia alone, and throughout the deliberations at Philadelphia he sought the general good rather than the advancement of the interests of his own State.

Madison.—The most active delegate was James Madison, then thirty-six years of age. He had served his State in Congress and had been prominent in the legislature. It was Madison who conceived the idea that distinct national and state sovereignties might exist in one system of gov-

ernment and be applied to the same individuals ; and it was his draft of a scheme of government, known as the “ Virginia Plan,” which became the basis for our present Constitution. During the sessions Madison not only spoke on every important question, but kept full notes, which are our chief source of knowledge of the proceedings of the Convention.

Hamilton.—Equally prominent with Madison was Alexander Hamilton, then thirty years old. He had been a member of Congress and a delegate to the Annapolis Convention. His influence upon the Convention was marked, for it was through his efforts that the national government obtained a large part of the power with which it was clothed by the Constitution. His strength lay in his great knowledge of the principles of government, his power to apply them, and his ability to present his opinions in a clear and convincing manner.

Franklin.—Of almost equal influence was Benjamin Franklin, then in his eighty-second year. His knowledge of public affairs extended over half a century, and he had represented the colonies and States in foreign countries for twenty-five years. This experience gave to his utterances a weight which their brevity and common-sense enhanced. He was the peacemaker of the Convention. When debates became bitter or too personal, it was Franklin who by his wit and tact restored the delegates to good humor. When the Constitution was drafted in its final form, it was Franklin who moved its adoption, using in part the following words, which breathe the loftiest patriotism:

The opinion I have had of its errors, I sacrifice to the public

good. Within these walls they were born, and here they shall die. If every one of us, in returning to our constituents, were to report the objections he had to it . . . we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor among foreign nations as well as among ourselves from our real or apparent unanimity. . . . I hope, therefore, that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution . . . wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

Other Statesmen Present.—Among the other prominent delegates was James Wilson of Pennsylvania, a signer of the Declaration of Independence and the great apostle of representative government. He was one of the leading American lawyers of his day, and his speeches in favor of the Constitution present the advantages of popular representation in the strongest light. There were also present Gouverneur Morris, to whose pen we are indebted for the clear and concise style of the Constitution, Charles Cotesworth Pinckney of South Carolina, Rufus King and Elbridge Gerry of Massachusetts, and Roger Sherman of Connecticut.

Statesmen Absent.—Conspicuously absent from the Convention were Thomas Jefferson, at that time representing the Confederacy in Europe, and John Jay, then Secretary of Foreign Affairs. John Hancock and John Adams were not delegates, and Samuel Adams and Patrick Henry were opposed to any change in the existing government.

Systems of Government Discussed.—Three forms of republican government were discussed in the Convention: namely, the *National*, which placed the power in the

hands of a central government and substantially did away with State lines except for the purposes of governing ; the *Confederate* or *Federal*, which was similar to that instituted by the Articles of Confederation ; and a third form, a compromise between the others, which placed the power in all national matters in a central government, and left the local matters of each State to the exercise of its own sovereignty. Under the latter plan both the general and State governments dealt, in their separate capacities, with the individual.

Plans Proposed.—At the very outset, two plans were presented to the Convention. One of these, based upon the national idea, was prepared by Madison, and was known as the “Virginia Plan.” The other, based upon the confederate or federal* principle, was the work of Charles Cotesworth Pinckney. On June 13 the committee to which these plans had been referred reported favorably on the “Virginia Plan.” Then the New Jersey delegates submitted what is known as the “New Jersey Plan,” which proposed a government similar in many respects to that of the Confederacy. The larger States favored the “Virginia Plan,” which based a State’s representation in the central government upon the number of its inhabitants, and gave the national leg-

* *Use of the Word “Federal.”*—With the adoption of the Constitution the word “federal” became generally applied to the system of government thereby established, while the system based upon a league between independent States was termed a “confederacy.” Thus the word “federal” was applied to the party which aimed at the adoption of the Constitution; and during the late civil war the same term was used to designate the Union forces, while the word “confederate” was applied to the armies of the seceding States.

islature the power of veto over state legislation ; while the smaller States supported the “New Jersey Plan,” which gave to each State an equal voice in the general government. Both plans differed radically from the Articles of Confederation, in that the three branches of government—the executive, legislative and judicial—which in the Confederacy had all been joined in the Congress, were separate and distinct.

Virginia Plan Adopted.—The general outline of the “Virginia Plan ” was adopted, and the Convention proceeded to take up the different subjects in detail and to harmonize the antagonisms among the various factions. It was during these discussions that the patience and patriotism of the delegates were often taxed to the utmost, and it was only through concessions by all that their labors were in the end successful.

Constitution Submitted to the States.—The completed Constitution, a mass of compromises, was then submitted to the States for adoption. Conventions were called and a period of the most intense excitement followed. The work was attacked on all sides. The conservative element in the different States strenuously opposed the new form of government. They saw the power of the States diminished, and in their stead a central government established, which they believed to be so strong as to endanger state and personal liberty. Objections were made to the Executive, to Senators and Representatives voting as individuals, to an oath of allegiance to the general government, and particularly to the absence of a Bill of Rights. The delegates were also made the object of attacks and their motives were questioned.

“The Federalist.”—It was in meeting and answering these objections that Hamilton, assisted by Madison and Jay, was most active, and exerted a powerful influence in obtaining the ratification of the Constitution. Their replies and arguments, published in a series of papers known as “The Federalist,” and which is still considered among the most learned and valuable treatises upon the Constitution, silenced all attacks and convinced the people of the benefits of the proposed change. And after prolonged discussions, and even riots and violence, the conventions met, the work was ratified* and the established Constitution went into effect March 4, 1789.

A list of the delegates is placed in Appendix II.

* The States ratified the Constitution in the following order : Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; and Rhode Island, May 29, 1790.

PART THIRD.

THE FEDERAL GOVERNMENT.

CHAPTER I.

THE PREAMBLE.

Many conflicting opinions exist concerning the sources of American institutions. One extreme view is that of Sir Henry Maine, who says that the "Constitution of the United States is a modified version of the English Constitution . . . which was in existence between 1760 and 1787." In other words, American institutions are a mere copy of those of the England of that period. The other extreme is expressed by Mr. Gladstone—that "it is the greatest work ever struck off at any one time by the mind and purpose of man." That is, that the scheme of government as set forth in the Constitution is wholly original and the invention of the members of the Constitutional Convention. Each of these views is partially wrong. The Constitution is not a copy, nor is it entirely original. The safer statement is that it is the product of the experience and observation of the people in their connection with England, their colonial and state governments, and the Confederacy of 1781. This experience and observation had impressed upon the people the importance of a stable union. Its advantages had been

seen during the colonial period under the distressing circumstance of French invasion and Indian outbreak. Its necessity had been emphasized during the struggles of the War of Independence. Its weakness had been realized under the loose league of the Confederacy.

During the war the purpose to win independence held the States together ; but when this was attained and the danger of foreign aggression had been removed, sectional prejudices and local interest proved stronger than the common tie, and the " league " began to fall apart. The faults of the Confederacy were apparent. Washington called them to the attention of the States ; and Hamilton and others, foreseeing the danger of disintegration, earnestly urged the establishment of a stronger government. It was to correct these faults and save the Union that the Constitutional Convention had been called. The problem before the delegates was definite. Their task was to devise such provisions as should " appear to them necessary to render the . . . Federal Government adequate to the exigencies of the Union."

With the single exception of the experiment of the Confederacy, American experience had been limited to governments which dealt directly with the individual. This was the basis of government in England, the Colonies and the States, but it was not so in the Confederacy. The latter dealt only with States, and the chief cause of its failure had been its inability to control the individual. Fully comprehending this defect, the Convention changed the basis of government and made authority over the individual the fundamental principle.

Such a change in the object of governmental influence

necessitated a corresponding change in the source of governmental authority, for it was a principle of civil liberty, developed through the ages by the constant struggle against arbitrary rule, that governments derive "their just powers from the consent of the governed." This had been the foundation of colonial resistance to the tyrannical acts of the English Ministry, and in the Declaration of Independence it had been prominently asserted as a right which authorized the establishment of a new nation. The principle had been recognized in the Confederation, for the authority of the central government had been granted by the States—the governed.

Under the Constitution the governed were no longer the States ; they were the individuals composing the States. "The People of the United States" must, therefore, be the source of power ; they must be made parties to the agreement before the government could justly exercise authority over them as individuals ; their consent would make possible the remedy which was sought ; and this attained, perfect union was assured.

This principle became the controlling idea in the Convention. And when by their solemn act the people adopted the Constitution and became parties to the national compact, a government was established which originated, as Daniel Webster declared, "entirely with the people and rests on no other foundation than their assent"—a government "of the people, by the people and for the people," a government of a union which the test of civil war has proved to be indivisible. It is the announcement of this principle and its application which is contained in the Preamble of the Constitution. For it

asserts that the fundamental law and the government thereby established are the work of the people, and that the powers conferred were not delegated by sovereign States, but by the individuals of the United States, and it confidently declares the purposes of the governed and the benefits which would result in these memorable words:

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

CHAPTER II.

THE LEGISLATIVE BRANCH.

1. CONGRESS.

The National Legislature.—Among the first decisions reached in the Constitutional Convention was the division of the Government into three branches—the Legislative, Executive, and Judicial—and it was provided that:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. (Art. I, Sec. 1.)

Parliament.—At the time of the Constitutional Convention the English legislature was a parliament, consisting of two “houses”: the “Lords” and “Commons.” The House of Lords was composed of men theoretically possessing great ability, deriving their office not from the people, but from birth or appointment by the crown, and having in the main a life tenure. Conservative, dignified and removed from popular agitation and influence, it was a preserver of traditions and an opponent to the advancement of democratic principles. The House of Commons was composed of elective representatives, men of the people, chosen for short or uncertain periods, and swayed by the passions of their constituents. Radical, hasty, influenced by popular clamor, it was antagonistic

to ancient privileges and the promoter of the growing power of the people.

American Legislatures.—In the several States there prevailed practically the same system, but under the Confederation the legislature consisted of a single “house.” One of the earliest and bitterest contests of the Convention of 1787 arose out of the discussion as to the form of the national legislature.

The Virginia Plan.—The “Virginia Plan” provided for a legislature consisting of two houses, the members of the lower body to be elected directly by the people, while those of the upper house were to be chosen by the lower house from persons nominated by the legislatures of the respective States. The representation in both houses was to be proportionate to population ; and upon all questions the votes of the individual members were to be counted, a practice contrary to that of the Continental Congress and the Congress of the Confederacy. This proposition was opposed by the smaller States, which viewed it as an attempt to give the control of national affairs to the larger States. It was, in fact, a plan to secure representation to the people as individuals and to remedy one of the defects existing under the Articles of Confederation.

The New Jersey Plan.—The “New Jersey Plan” proposed a continuance of the Congress of the Confederacy. It was intended to preserve the full power and influence of each State, jealous of its own rights and envious of the growing importance of its neighbors.

Connecticut Compromise.—It was early decided that there should be two houses. The next point of discussion was the basis of representation,—whether the unit of rep-

resentation should be the State or the individual. A solution was presented by the Connecticut delegates, who were familiar with a legislature of two houses, the members of which were chosen in different ways. They proposed that the members of the lower house should be elected by the people in proportion to the population of the several States—*i.e.*, individual representation ; while in the upper house each State should have an equal number of members—*i.e.*, State representation. This is known as the “Connecticut Compromise.”

Representation.—It was finally provided that :

The House of Representatives shall be composed of members chosen every second year by the people of the several States,
. . . (Art. I., Sec. 2, Cl. 1.)

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislatures thereof, for six years ; and each Senator shall have one vote. (Art. I., Sec. 3, Cl. 1.)

Thus there was an apparent copying of the English system in the establishment of a Congress which resembled Parliament in having two houses, the members of which differed as to manner of election and term of office, and only one of which houses directly represented and was responsible to the people, as individuals. And yet this copy is not real, for in England the House of Lords represents a class of society, while the Senate represents all the people of the State as a political body.

Qualifications of Members.—The framers of the Constitution recognized a difference between these two houses, not only in composition, but also in the character of the members. It was expected that the Senate would be the

more dignified body, and would demand men of greater learning, broader views and more extended experience than those of the lower house. Provision was made to meet this expectation by requiring as qualifications that:

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, . . . (Art. I., Sec. 3, Cl. 3.)

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, . . . (Art. I., Sec. 2, Cl. 2.)

It will be observed that in the case of both Senators and Representatives extended citizenship is made a necessary qualification, to the end that their interests may be to the fullest degree in sympathy with the welfare of the nation. And to further emphasize this sympathy, and extend it to the States, it is required that each shall, "when elected, be an inhabitant of that State" in or for "which he shall be chosen." (Art. I., Sec. 2, Cl. 2, and Sec. 3, Cl. 3.) And further, in order to secure the time and talents of such members to the legislative business of the government, it is provided that:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, . . . ; and no person holding any office under the United States shall be a member of either house during his continuance in office. (Art. I., Sec. 6, Cl. 2.)

This provision prevents the possibility of dishonest practices on the part of officials who, as such, might be responsible to themselves as members of Congress, or who in the latter capacity might determine the compensation

which they would receive in the other. Neither can a Senator or Representative be appointed as an Elector for the election of President. (Art. II., Sec. 1, Cl. 2.) The reason for this provision will be considered under the Executive Branch.

Apportionment.—The next difference in the Constitutional Convention arose over the method of apportioning the Representatives among the several States. In this controversy the parties were no longer the large and the small States, but those who favored and those who opposed slavery. The “Virginia Plan” had provided for representation proportionate to the population of the States, and this was interpreted by the delegates from the States which depended chiefly on slave labor to include slaves as well as freemen. On the other hand, the States whose citizens had few slaves claimed that, inasmuch as slaves were not entitled to any political privileges, such an interpretation was illogical and would give greater political power to the free voter in the “slave” State than to his brother in the “free” State—a principle opposed to the ideas of civil equality. This question became involved with another—the basis of taxation. It is a principle of justice that those who enjoy benefits must bear the attendant burdens. So the “free” States insisted that taxation and representation should be apportioned on the same basis, and that if the slave was to be counted for the purpose of representation, so he must be counted for the purpose of apportioning taxes. This was opposed by the “slave” States, and a crisis was imminent when Madison proposed a solution in the form of a compromise by which it was determined that:

Representatives and direct taxes shall be apportioned among the several States . . . according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. (Art. I., Sec. 2, Cl. 3.)

Ratio.—The first apportionment of such representation was made on the basis of one Representative for every thirty thousand people (*Id.*). Thus, if a “free” State had a population of three hundred thousand persons, and a “slave” State a population of two hundred and ten thousand free persons and one hundred and fifty thousand slaves, a total population of three hundred and sixty thousand persons, each State would be entitled to ten Representatives and be liable to pay an equal amount of a national tax. Lest any State should be unrepresented by reason of a population of less than the ratio, it was further provided that “each State shall have at least one Representative” (*Id.*).

This method of apportioning Representatives and direct taxes continued until after the Civil War, when, in order to complete the work of granting full rights to the freedmen, Amendment XIV. was adopted, the second section of which provides that:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote . . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, . . . except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Each State, therefore, is entitled to representation proportionate to the whole number of its citizens, and cannot be deprived of such right, save by its own act in unduly restricting political privileges.

Increase of Members. — The Constitution does not fix the number of members in either house, but leaves it subject to change. Such changes have occurred as the country has grown in population, and the ratio of representation has been increased after each national census,* taken in pursuance of the Constitution (Art. I., Sec. 2, Cl. 3), until it is now (1911) over one hundred and ninety-four thousand, notwithstanding which the House has grown from a body of sixty-five in the First to one of three hundred and ninety in the Sixty-second; and in the first session of the present Congress (1911), which began April 4, 1911, there were three hundred and ninety-one members.† A similar growth has also occurred in the Senate. Although no change has been made in a State's representation in the upper house, each State admitted to the Union has added two members to that body; so that it has increased from a membership of twenty-six to ninety-six.

Term of a Congress. — The first Senators elected were, in pursuance of the Constitution (Art. I., Sec. 3, Cl. 2), divided into three classes with terms expiring in two, four, and six years respectively. As a result, one-third of the Senate has to be renewed every two years (*Id.*). This fact, together with the provision for the election of Representatives, determines the life of a Congress as two years.

Sessions. — A Congress begins on the 4th day of March

* Taken in 1790, and each tenth year since.

† After March 3, 1913, the ratio of apportionment shall be 211,877 population and the number of Representatives 433. Arizona and New Mexico will elect one member each to the present Congress.

in every odd-numbered year and continues until the second succeeding 4th day of March. Such "Congress shall assemble at least once in every year" (Art. I., Sec. 4, Cl. 2). This meeting is called a *session*, and the regular date for its commencement is the first Monday in December. A Congress has thus two sessions. The first, called the "Long Session," commencing on the first Monday in December in an odd-numbered year, continues until the next succeeding spring or summer. The second, or "Short Session," commencing on the first Monday in December in an even-numbered year, continues until the next 4th day of March. As a Representative is elected in an even-numbered year, it happens that more than a year elapses between his election and the first session of the Congress to which he is elected. But this is not always so. If necessary, Congress can be assembled by the President as soon as it comes into being ; for he can, "on extraordinary occasions, convene" Congress (Art. II., Sec. 3), so that there may be more than the two regular sessions. This happened in the Fifty-fifth Congress, in which there were three sessions.

Place of Meeting.—Congress convenes in the Capitol in the City of Washington, the two houses meeting in rooms in the opposite wings of the building, known as the Senate Chamber and Hall of Representatives. But whenever for any cause it would be dangerous for the members to meet at their usual places, the President is authorized to convene Congress at any other place he may deem proper.

Change in "House."—It is possible that there may be in each Congress a House of Representatives composed of

members entirely different from those of the preceding Congress. Theoretically, each "House" is *new*.

The framers of the Constitution looked upon the House as the direct channel for the expression of the public will. Hence it has often happened that the membership of that body has so changed that the majority in one House has been of opposite political faith to that of the preceding one, as the popular mind has been changed by some crisis.

Stability of Senate.—With the Senate this is not so. This body is never *new*. Only one-third of its members is changed at the same time, so that it is continuing, two-thirds being composed of men of legislative experience. As a result, the Senate is not materially affected by change in popular sentiment.

Characteristics Contrasted.—Thus we may view the two houses of Congress as reflecting the general character of the two houses of Parliament—the one, the House, vigorous, active, progressive, full of popular spirit and often chosen to meet the demands of present conditions ; the other, the Senate, calm, slow and bound by tradition ; the one, a spur and promoter of legislation, the other, a check and curb.

2. SENATORS AND REPRESENTATIVES.

Election.—The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof ; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators. (Art. I., Sec. 4, Cl. 1.)

Under this provision Congress can divide States into

Congressional Districts and take any action relative to the election of members except to change the place of electing Senators, or, under Clause 1 of Section 2 of Article I., to prescribe the qualifications of electors of Representatives. Congress has, however, left these matters almost entirely to the several States, only prescribing a few rules for the purpose of uniformity.

Senators.—Senators are elected by the legislatures of the States. Such election takes place on the second Tuesday after the organization of the legislature chosen next before the expiration of the preceding senatorial term. In each house of the legislature the members present, by a *viva voce* vote, name a person or persons for Senator, and the name of the person receiving the greatest number of votes is entered upon the journal of that house. At noon on the next day the members of both houses meet in a joint session, at which the journals of the two bodies are read, and if the same person received a majority of the votes in both houses he is declared elected Senator. However, if no person receives such majorities, the members in joint session proceed by a *viva voce* vote to choose a Senator, a majority of all the members being necessary for an election. If such a majority is not secured at the first session, the two houses meet jointly at noon on each succeeding legislative day and take at least one ballot for Senator until one is elected or the legislature adjourns. If a vacancy in the representation of any State in the Senate occurs by reason of death or otherwise, such vacancy is filled by the legislature in the same manner as a Senator is regularly elected. But if such vacancy should occur during a recess of the legislature, the gov-

ernor of such State may fill the vacancy by a temporary appointment until a Senator is elected at the next session of the legislature (Art. I., Sec. 3, Cl. 2); but the governor cannot make such an appointment after the legislature has failed to elect. A person so elected or appointed receives from the governor of the State a certificate of his election or appointment directed to the President of the Senate of the United States.

Representatives.—The number of Representatives to which each State is entitled is determined by Congress after each decennial census. Congress has fixed the time of their election as the “Tuesday next after the first Monday in November” in every even-numbered year. In States entitled to more than one Representative, they are elected by “districts composed of contiguous territory and containing as nearly as possible an equal number of inhabitants,” which districts are determined and the boundaries fixed by the legislatures of the States. When, in a reapportionment, a State’s representation is increased, the additional Representatives are chosen by vote of the whole State, until the State is redistricted. They are called *Representatives* or *Congressmen at Large*.

Gerrymandering.—This division of a State into Congressional Districts has often led to a political process called “gerrymandering,” whereby the dominant party in the State has so manipulated the division as to secure to itself the greatest possible number of Representatives. The scheme, though originating in Virginia, is named from Elbridge Gerry, during whose term as Governor of Massachusetts, that State was so redistricted that one of the districts resembled a salamander, which a political oppo-

ment called a "gerrymander." The process consists of uniting hostile sections into one district, or of adding to a district in which the sentiment is evenly divided a section in which the friendly votes are sufficient to give the control to the dominant party.

Residence.—Although by the Constitution a Representative is only required to be a resident of the State from which he shall be chosen, custom has added that he also reside in the district from which he is elected. This is often criticised for the reason that it limits selection and excludes many persons of preëminent ability because of residence in districts which the opposite political party dominates. It is contrary to the English custom, which permits the election of a member of the House of Commons from a political division in which he is neither a resident nor has property. But the American custom makes the representative of a district acquainted with the needs and wishes of his constituents and guarantees a more general representation by precluding the possibility of all the representatives being chosen from one class or section of a State—a condition contrary to the theory of a republican form of government.

Qualifications of Voters.—It is a notable fact that Representatives are the only members of the national government elected directly by the people. For the purposes of their election it is provided that

the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. (Art. I., Sec. 2, Cl. 1.)

This is a matter beyond the control of Congress and entirely within the power of the States to determine.

Hence the qualifications vary. In some States only males twenty-one years of age possess the electoral privilege. In others it belongs to both males and females. In some there are additional requirements, such as education or property or poll-tax. But whatever such qualifications may be, they must be uniform in their application throughout the State, and the right

to vote shall not be denied or abridged . . . on account of race, color, or previous condition of servitude. (Amendment XV.)

Vacancies.—If vacancies occur “in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies” (Art. I., Sec. 2, Cl. 4). The rules governing such election are the same as in the case of an original election. The person so elected serves only during the balance of the unexpired term. All Representatives-elect are given certificates of election under the seal of their State, addressed to the House of Representatives.

Delegates.—Besides Senators and Representatives, there is in each Congress one delegate from each Territory, who has “a seat in the House of Representatives, with the right of debating, but not of voting.” Such delegates are there to present to Congress the needs and further the interests of the Territories which they represent.

Review of Elections.—The certificates of election of Senators and Representatives are not absolute guaranties of seats in Congress. For, if there have been frauds or illegal practices in their election, the house to which they have been chosen has the power, after investigation, to set aside such election ; for:

Each house shall be the judge of the elections, returns and qualifications of its own members, . . . (Art. I., Sec. 5, Cl. 1.)

Oath.—Before these various Representatives take their seats they are required to take an oath to support the Constitution of the United States (Art. VI., Cl. 3). This is administered to Senators by the President of the Senate, the new Senator being presented for that purpose by the other Senator from his State, called his “colleague,” and to Representatives and Delegates by the Speaker of the House of Representatives. The oath is as follows:

I [name] do solemnly swear [or affirm] that I will support and defend the Constitution of the United States against all enemies foreign and domestic ; that I will bear true faith and allegiance to the same ; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The action of former Senators, Representatives and certain federal and state officers in taking up arms against the United States during the Civil War led to the adoption of Section 3 of Amendment XIV., to give effect to which a further, or “iron-clad,” oath was administered for several years. The provisions of this Amendment have, however, been repealed, and only the regular oath is now required. And “no religious test” or oath can be required of any member of either house of Congress or of any federal or state officer (Art. VI., Cl. 3).

Compensation.—Each Senator, Representative and Delegate receives the sum of seven thousand five hundred

dollars per year, together with a mileage fee of twenty cents per mile in going to and returning from each regular session. The Speaker of the House of Representatives receives twelve thousand dollars per year. In addition to his regular salary each member is allowed a fixed sum for newspapers, stationery, clerk hire and other necessary expenditures.

Detention of Members.—The Constitution contains two provisions for the personal protection of Members of Congress. The first is that :

They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same ; . . . (Art. I., Sec. 6, Cl. 1.) *

This is but an enactment of an old English law for the protection of members of Parliament. As early as the reign of Edward I. it was declared unbecoming for a member of the king's council to be "distrained" in time of its session, and in 1433 a statute was passed exacting a penalty from anyone who molested members coming to or returning from Parliament. This section extends to arrests for all civil causes, detention as a witness or summons as a juror, and is not lost by a stoppage on the route for rest or on account of illness. Its object is not merely the protection of the individual member, but is for the convenience of the Government, which should not be deprived of the counsel and presence of legislators for any but the most serious reasons. Incidentally, this provision is a safeguard against the passage of noxious legislation

* For definitions of Treason, Felony and Breach of the Peace, see pages 158, 215.

by the detention or removal, under legal forms, of men whose presence would make such action impossible.

Freedom of Debate.—The second provision is that “for any speech or debate in either house, they shall not be questioned in any other place” (*Id.*). This is also an English principle. In 1621 a statute of the House of Commons declared that :

Every member hath freedom from all imprisonment . . . for or concerning any bill, speaking or declaring of any matter or matters touching the Parliament or Parliament’s business.

The same principle was confirmed by the Bill of Rights. This provision makes it possible for a member to criticise any matter or person who may be before Congress, without fear of being charged with slander before a court, and is one of the strongest legislative provisions by reason of the perfect freedom which it guarantees.

Adjournments Limited.—Having so provided for the protection of the members, it was expected that each house would devote its time to the business of the Government. And, that each branch should have the constant presence of the other, it was provided that :

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. (Art. I., Sec. 5, Cl. 4.)

3. ORGANIZATION AND METHOD OF WORK.

Presiding Officers.—The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided. (Art. I., Sec. 3, Cl. 4.)

The House of Representatives shall choose their Speaker . . . (Art. I., Sec. 2, Cl. 5.)

These provisions present a striking resemblance to the English custom. The presiding officer of the Senate is not a member of the body over which he presides nor is he chosen by that body, but, like the Lord Chancellor, derives his position by virtue of his office. He possesses only the right of a "casting" or deciding vote in the case of a tie—that is, when the votes for and against a question are equal. In the House of Representatives, as in the House of Commons, the presiding officer is a member of the body, elected by his fellow-members and known by the name of "Speaker," a title derived from that of the person formerly selected by the House of Commons to sign and present its "petitions," as bills were called, or other communications from that body to the king. He is entitled to vote upon all questions before the House.

The Speaker.—These officers are expected to perform only the usual duties of presiding officers, but the Speaker has gradually absorbed powers until he is one of the most important officers of the Government. He has great influence with the House, and to a large extent controls legislation. He is usually the most capable member of the party in the majority, possessing great experience in legislation, familiarity with parliamentary procedure and knowledge of men and affairs.

Other Officers.—Each house possesses the power to choose its other officers (Art. I., Sec. 2, Cl. 5 and Sec. 3, Cl. 5). Besides the President *pro tempore* of the Senate (an officer who presides in the absence of the President of that body), the officers in each house are a Clerk, Sergeant-at-Arms, Chaplain, Postmaster, Librarian and

Doorkeeper, each of whom has one or more clerks and none of whom is a member of either body. The *Clerk* takes charge of the transacted business of his house, keeps the roll of members, preserves the minutes, is the custodian of bills and, in a word, has general management of the routine work. The *Sergeant-at-Arms* is the police officer and messenger of the house. He acts for the body, and disobedience to him is disobedience to the house. In the House his symbol of office is the "mace," and its appearance in his hands is generally sufficient to quell the greatest disorder and restore quiet. He is also the paymaster of his house. The *Doorkeeper* has charge of the rooms in which the sessions are held and the galleries where the public assembles to listen to the debates. These officers are usually nominated in a "caucus," or meeting, of the members of each political party, held before the assembling of Congress, and are then chosen by the votes of the body in open session.

Quorum.—No business can be transacted in either house without the presence of a quorum, which consists of a majority of the members elected to that body. (Art. I., Sec. 5, Cl. 1.)

But a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide. (*Id.*)

The object of these provisions is to secure in each body the presence of a sufficient number of its members, so that business may receive proper consideration. It is a recognition of the principle that all acts should be those of the majority. It insures the presence of a quorum by giving

to a few members—in the House fifteen—the power to cause absent members to be arrested and brought before the House by the Sergeant-at-Arms. This is known as a “Call of the House.”

Counting a Quorum.—The necessity of a quorum has often been taken advantage of by members hostile to the dominant party, and oftentimes in the case of a close vote a sufficient number of members have left the room to reduce the number actually present to less than a quorum. Formerly a quorum was determined by the number of votes cast on a question, and it was possible for members to remain in their seats and not answer as their names were called, thus defeating by silence what they were powerless to defeat by open methods ; for, if less than a quorum responded to the roll-call, the transaction of business was suspended, although enough members might be visibly present to constitute a quorum. This led to the adoption of a rule whereby all members present can be counted whether they vote or not. And a further rule provides that when all such members have been counted, if there is still no quorum, there may be had a “Call of the House,” the arrested members being given the right to vote upon the question before the House.

Formalities of Organization.—The first meeting of the House is presided over by the Clerk of the previous House, who calls the roll of the members-elect, and, having ascertained the presence of a quorum, directs the election of the Speaker. Oftentimes several ballots have to be taken before an election is secured. As soon as he is elected, the Speaker takes the oath of office, which is

administered by the Representative longest in continuous service as a member. The roll of the House is then called, and the Speaker administers the oath of office to the members. It is then usual to send a committee to inform the Senate that the House is organized, and to appoint another committee, which, in conjunction with a similar one from the Senate, waits upon the President and informs him that Congress is ready to receive any communication that he may be pleased to make.

Drawing Seats.—At an early time in the session occurs the drawing of seats. These are arranged in semicircular rows facing the Speaker's chair, and are equal to the number of members and delegates. A quantity of small balls is prepared, each having a number corresponding to a number on an alphabetical list of the members. These are thoroughly intermixed, and drawn from a box by an attendant, and as each member's number is drawn he selects his seat. The members of the same political party usually sit on the same side of the House, and it is customary to permit the members longest in service to have first choice of seats. While this is going on in the House, a similar action is occurring in the Senate, where the new members are sworn in by the president of the Senate and seats are assigned.

Committees.—After the officers of the two houses have been selected, the committees are appointed. This is a very important matter, for upon their work depends, to a large extent, the usefulness of Congress. These committees are many in number and various in size, and are intended to have jurisdiction of all subjects which come before their respective houses. Thus in the House the

Committee on Ways and Means has control of matters relating to revenue and the bonded debt of the United States ; the Committee on Appropriations has charge of matters pertaining to the support of the different branches of the Government. There are also committees on Foreign Affairs, the Judiciary, Military Affairs, Banking and Currency, Railways and Canals, Territories, Insular Affairs, District of Columbia, Pensions, Post Offices, Coinage, Weights and Measures and many others. In the Senate are the Finance and Appropriations Committees, corresponding to the Committees on Ways and Means and Appropriations of the House, the Foreign Relations Committee and many others with jurisdictions similar to those of the House.

Method of Appointment.—In the Senate these committees are appointed by the body itself, but in the House they are usually appointed by the Speaker. This is a source of great power to him, for he is enabled to exert great influence upon legislation by the selection of men holding views similar to his own for the prominent positions on important committees ; but it is customary to give the opposing political party a minority representation on each committee. In each house the member first named on a committee is its chairman, and those of the most important committees possess great control over legislation. Thus the Chairman of the Committee on Ways and Means is, after the Speaker, the most influential member of the House. He is considered the leader of his party on the “ floor.” He is intrusted not only with the management of the business of his committee, but also with many other matters pertaining to the

general conduct of work and the control of parliamentary tactics.

Work of Committees.—To these committees are referred every measure introduced into either house of Congress. Being small bodies, they are able to give close attention to the questions presented, and by reason of training in special lines are enabled to exercise better judgment than could be done by the members of the house acting as a whole. Thus legislation is expedited, and thousands of useless measures are “killed in committee”—that is, cast aside and not reported. In the exercise of their duties the committees may call in the assistance of experts, may take testimony and compel the attendance of witnesses, and conduct any investigation which the importance of the matter before them may warrant. Upon their report depends largely the action of their house ; for although their decision is not final, yet, in the main, their judgment is followed.

Rules.—The proceedings in each house are controlled by the rules which it makes for itself (Art. I., Sec. 5, Cl. 2). These are practically the same in both bodies, and through the experience of years have grown into an intricate system, which not only directs the progress of business, but affects the decorum and conduct of members (*Id.*).

Method of Legislation.—The progress of a bill, or proposed draft of a law, through the House is substantially as follows: It is introduced by being presented to the Clerk, indorsed with its title and the name of the member introducing it. The Clerk gives it a number, and when reached under the proper order of business it is

read the first time. It is then handed to the Speaker, who puts the question whether it shall be read a second time. If it is so decided, the bill goes back to the Clerk to await its second reading. This must regularly be on another day. When it is again read, it is sent to the committee which has charge of its subject. Here it is examined, and with or without amendments is reported to the House. It is then considered in what is called a "Committee of the Whole" (an informal organization of the whole House for the purpose of discussion, over which some member, other than the Speaker, presides), where it may be debated and further amended. It is then read a third time, and the question is put, "Shall the bill pass?" If it receives a majority vote, it is signed by the Speaker and attested by the Clerk, with a note of the date of its passage. This method, with but slight differences, is pursued in the Senate. A bill, after its title, begins with the following words: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That" . . .

Filibustering.—The progress of a bill is not always easy. At every point it may meet opposition. Amendments, delays, all the tricks of parliamentary tactics may be employed to impede it, and oftentimes an "active minority" may be able to defeat the will of the majority. Such methods are called "filibustering." They are not usually successful, however; for by the rigorous enforcement of the rules a Speaker is able to guide a measure through the fiercest opposition. Even debate can be cut off in the House by a call for the "previous question," which is undebatable, and being adopted brings up the measure

for immediate vote. In the Senate there is no way to stop debate, and it is possible for an opposition to consume a whole session in the discussion of a question. This is an instance of "senatorial courtesy," a sentiment arising from the dignified character of the body, which excludes all limitations upon the official conduct of a Senator and concedes to him freedom in accordance with the dignity of his position.

Records of Proceedings.—Pursuant to Article I., Section 5, Clause 3, a record of the proceedings in each house is kept in a "journal," in which is set forth the roll, bills introduced, motions, resolutions, rulings of the presiding officer, business, and votes taken with the name and vote of each member when required by one-fifth of the members present. In addition to this record there is published each day during the session a paper called the "Congressional Record," in which is a *verbatim* report of the incidents of the preceding day. This is distributed according to law among certain officials, Senators and Representatives and libraries, and upon payment of a small fee to the public at large.

Interaction of Houses.—In its work neither house is independent of the other. While each acts by itself, both must agree in the result, or action fails. Thus, a measure which has passed one house may be rejected by the other, or a bill may be amended in one house after its passage in the other, in which case it must repass the first body in its amended form. Often, for the purpose of hastening important legislation, the same bill is introduced simultaneously in both houses, when it is called a "joint bill," a "joint resolution" or a "concurrent reso-

lution.” All these possibilities lead to many complications ; and frequent interviews, or, as they are called, “meetings of conference committees,” are held and a compromise effected. Thus each house acts as a check on the other. Thus each, reviewing the work of the other, tends to produce better legislation ; and while there are often delays which are irksome to the public, and while legislation is often produced which falls short of the popular desire, yet the results are generally satisfactory and the delays are counterbalanced by freedom from radical measures, a characteristic which has marked our national legislation during more than a hundred years.

4. *LEGISLATIVE POWERS.*

General Limitation.—The fear of a strong central government and the desire to retain all possible powers in the several States were marked political characteristics of the people at the time of the Constitutional Convention. During its entire session the local powers of the States were jealously guarded, and only those were granted to the national government which were general in character, and such as could not be properly administered by the States themselves. Even then the people were fearful of the new government, and among the early amendments added to the Constitution was one which provided that:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Amendment X.)

Constitutionality.—It was intended by this amendment to place beyond contradiction the fact that the United

States Government was not one of original powers, but possessed merely those which the Constitution delegated to it. Hence, in considering any question of national legislation or action, the inquiry, "Is it constitutional?" means is there in the Constitution any provision which, under reasonable interpretation, gives the Government authority for the act. From the time of the First Congress every act of legislation has been subjected to this test, and the differences of opinion upon these questions have generally marked the two great political parties of the country—the one, termed "Loose Constructionists," insisting that the Constitution granted not only the powers expressly stated, but all others that could reasonably be inferred from it; the other, called "Strict Constructionists," denying the existence of any implied authority and insisting upon a literal interpretation of the Constitution.

Taxation.—The weakness of the confederacy showed the framers of the Constitution the necessity of extensive and strong powers in the general government. They were familiar with the inability of the confederacy to enforce its requisitions for money and with its resulting helplessness. They felt that there was no more important function of government than that of levying and collecting taxes; for however vast the resources, however extensive the boundaries, however patriotic the citizens, the Government was powerless if it could not compel the use of these resources for its support. They, therefore, provided that:

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common

defense and general welfare of the United States; . . . (Art. I., Sec. 8, Cl. 1.)

Of this power, Chief Justice Chase said:

To the existence of the States and to the existence of the United States the power of taxation is indispensable. It is an essential function of government. It was exercised by the colonies and by the states formed therefrom. Under the Articles of Confederation the Government was limited in the exercise of this power to requisitions upon the States. The Constitution changed this condition of things. It gave the power to tax directly and indirectly to the national government.

Direct Taxes.—A *direct tax* is defined by Mill as a charge “which is demanded from the very persons who, it is intended or desired, should pay it.” Such taxes are poll or capitation tax, imposed upon individuals at so much a person (literally, “per head”), charges upon lands, personal property, incomes, and the rents and profits of property. In the levying of such direct taxes provision was made that no State should bear more than its share of the burden.

Direct taxes shall be apportioned among the several States . . . according to their respective numbers. (Art. I., Sec. 2, Cl. 3.)

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken. (Art. I., Sec. 9, Cl. 4.)

When a direct tax is laid, the amount of money to be raised is first ascertained, and the tax is apportioned among the States according to their population at the last census.

Indirect Taxes.—*Indirect taxes* are defined as “those

which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of others." Such taxes are duties or imposts, imposed upon the importation of goods, and excises, an inland tax levied upon the manufacture or sale of certain articles and upon licenses to pursue certain trades or to deal in certain commodities. In the levying of such indirect taxes it was provided that they should "be uniform throughout the United States" (Art. I., Sec. 8, Cl. 1). By "uniform" is meant that such taxes shall be the same in one State as in another, regardless of population, a characteristic in which they differ from direct taxes. But all articles need not be taxed alike. Thus tobacco may be taxed at one rate, silk at another, while other commodities may be under very different charges, but the charge on each class of articles is the same everywhere.

The Tariff.—Duties and imposts, also called "customs," are charges made upon imports, and are of two kinds—*specific* and *ad valorem*. A *specific* duty is a certain sum charged on each article, regardless of its cost or value, as so much per pound, gallon or yard. An *ad valorem* duty is a charge made at a certain percentage of the cost or value of the article. The list of dutiable goods, with the prescribed charges, is called the "tariff." About the levying of duties and imposts have centered some of the fiercest political struggles of this country; and the character and purpose of the duties imposed have in several campaigns marked the division of the great parties. Civics is not the place to enter into a discussion of the economic features of the subject of duties. That belongs to the study of Political Economy. It will be sufficient

for the present to know that in the division of sentiment caused by this subject there is one party whose members are known as "Protectionists," who insist that under the implied powers of the Constitution the Government has the right to impose duties and imposts, not only to supply revenue for its support, but also to encourage and foster manufacturing and other industries in the country, and for this purpose to raise the charges so high as practically to prohibit the importation of goods. Opposed to this party are the so-called "Free-Traders," who advocate the collection of duties for the support of the Government, but deny that they can be constitutionally imposed for any other purpose.

A modification of "protection" is the reduction of duties upon imports from a country in return for a similar reduction by it upon American goods. This is termed "reciprocity," and is established by treaty (page 132). The converse, called "retaliation," is the increase of duties upon imports from a country which has increased its duties upon American articles. This is done by the President, to whom the power is usually given by Congress.

Collection of Duties.—In order to collect these duties certain places along the coasts and borders of the country are designated as *Ports of Entry*, where are government buildings called *Custom Houses*, in charge of officers known as *Collectors of Customs*. At these places cargoes are examined by the Collector or his agents, called *Inspectors*, and duties are computed and collected upon importations according to the schedules fixed by law. Dutiable articles constitute a long list, and consist of so-called

luxuries, as diamonds, works of art, silks and the like ; certain necessities, as clothing ; and a large number of other articles, “ raw ” and manufactured.

Internal Revenue.—Excises constitute what is known as the *internal revenue* of the country, and are taxes levied upon the manufacture and sale of liquors and tobaccos, and frequently upon other articles, such as telegrams and legal and commercial papers, upon which have to be affixed revenue stamps varying in value from a fraction of a cent to many dollars. Matters pertaining to the sale of these stamps and the collection of this revenue are in the charge of government officers called *Collectors of Internal Revenue*.

The National Income.—These taxes, direct and indirect, constitute the sources of the national income. The receipts are nearly always sufficient for the demands of the Government, and at times have been so large as to rapidly diminish the great debts incurred in the several wars in which we have been engaged. Indeed, so great have been the indirect revenues that, except in a very few instances, no direct taxes have ever been levied.*

Commerce.—Intimately connected with this power of Congress is that “ to regulate commerce with foreign nations, and among the several States, and with the In-

* The principal direct taxes levied by the general government were the following : July 14, 1798, two millions of dollars ; January 9, 1815, six millions of dollars ; August 5, 1861, twenty millions of dollars, to be levied annually thereafter. In the latter case the taxes were not collected by officers of the United States, but each State paid its portion from the moneys in the State treasury. This tax was collected but once, and the act was suspended. In 1891 the United States refunded to the States the sums which they had paid on the tax of 1861.

dian tribes ” (Art. I., Sec. 8, Cl. 3). “Commerce,” as here used, means not only trade, but also intercourse and navigation. Before the Constitution all such laws were enacted by the States, and the greatest confusion resulted. But because the regulation of commerce was a matter of general interest, and for the purpose of uniformity, it was delegated wholly to the general government. Under this section Congress has power to appropriate moneys to render navigation less dangerous, to build lighthouses, to provide life-saving stations, improve harbors, dredge rivers, establish quarantine regulations, license and require the employment of licensed pilots, make surveys of the coasts, issue charts and maps, and perform many other acts of a similar nature.

Shipping Regulations.—By virtue of this power Congress has made regulations requiring American-owned vessels to be *registered*, an act which accords to such vessels privileges not extended to foreign ships, such as to engage in the coasting trade and to be protected by the Government if seized or injured by a foreign power. So, also, a vessel upon leaving port is required to take out a certificate called a *clearance*, issued by the collector of customs, showing that all harbor fees have been paid and regulations observed. Upon arrival at an American port, a further regulation requires a vessel to be *entered*—that is, to report to the collector, present a statement of its cargo and deliver the clearance which it received from the last port. This last, however, is not generally required of American vessels engaged in the coasting trade. All other laws relative to the merchant marine of the nation rest upon this section.

Interstate Commerce.—Under this section laws have also been passed controlling railroads whose business is conducted in two or more States, prescribing rules for their management, construction and rates for freight. And, finally, it is from this section that Congress derives its authority to regulate all intercourse and traffic with the Indians.

Federal Taxes and State Taxes.—The power to levy duties and imposts and to regulate commerce belongs peculiarly to Congress, for it is provided that:

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws ; . . .
(Art. I., Sec. 10, Cl. 2.)

And the Supreme Court of the United States has held that the right to regulate commerce is “exclusively vested in Congress and cannot be exercised by a State.” This is not true of the right to levy direct taxes. This right is co-existent in state and national governments, and the exercise of it by Congress does not preclude a State from taxing the same property, though the claims of the general government are superior; and if there is not sufficient property to satisfy the demands of both governments, that of the nation has preference.

Restrictions on Taxation.—It should be observed that the purposes for which Congress is thus given the power to tax are “to pay the debts and provide for the common defense and general welfare of the United States” (Art. I., Sec. 8, Cl. 1). The courts have held that taxation purely in aid of personal or private objects is beyond

legislative power, and that Congress cannot even raise a tax for purposes which are within the exclusive jurisdiction of a State.

There is another restriction upon this power of Congress. That is, that "no tax or duty shall be laid on articles exported from any State" (Art. I., Sec. 9, Cl. 5). The reason for this provision is that the extent of the country is so great and its resources so varied that a uniform burden of export duties would be practically impossible, and the interests of the various States would be constantly demanding recognition, which would destroy trade stability and result in the greatest confusion. Furthermore, such taxation would tend to impede the growth of industries by making the charges upon their products so high as to render competition in a foreign market impossible. Uniformity in commercial regulations is assured by the provision that:

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another ; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another. (Art. I., Sec. 9, Cl. 6.)

Power to Borrow.—The revenues just considered are adequate in times of peace and usual prosperity. But there arise conditions when these are insufficient. The Civil War created such a condition. So, also, a crisis may arise when the revenues are depleted and time will not permit the collection of sufficient taxes to prevent national embarrassment. To provide against such an emergency, Congress can "borrow money on the credit of the United States" (Art. I., Sec. 8, Cl. 2).

This is a very important provision. Chief Justice Marshall said:

No provision can be selected which is of more vital interest to the community . . . No power has been conferred by the American people on the government, the free exercise of which more deeply affects every member of our republic. In war, when the honor, safety and independence of the nation are to be defended, when all its resources are to be strained to the utmost, credit must be brought in aid of taxation, and the abundant revenues of peace and prosperity must be anticipated to supply the exigencies of the moment.

Coinage; Weights and Measures.—An important power of Congress is the one:

To coin money, regulate the value thereof, and of foreign coin, and fix the standards of weights and measures. (Art. I., Sec. 8, Cl. 5.)

The trading instinct has made necessary some medium of exchange. For this the precious metals have been found the most practicable, and gold and silver are now generally used, with nickel and copper for small values. At first these media passed by weight; later they were made into coins—that is, stamped into shape and marked with some device significant of their value. This, however, was not an absolute guaranty of value, and so governments took upon themselves the power to coin money, and the stamp affixed to a coin is a pledge by the government that the value of the coin is what it purports to be.

Monetary System.—At the time of the adoption of the Constitution there was no fixed monetary system in the country. Spanish milled dollars, English shillings and other foreign coins were in common circulation. The

need of a uniform system was evident. This could not be obtained by leaving it to the States, for each might adopt a different standard of weight or purity. So the right to coin money was granted to Congress, together with the power to regulate the value of foreign coins in exchange for those of this country. Uniformity resulted. The dollar is the same in all sections of the country, and trade is carried on freely without the necessity of testing the purity or weight of coins. The Government does its coining in buildings called *mints*, of which there are several, in different cities. The principal one is at Philadelphia, Pa.

Systems of Weights and Measures.—Although uniformity in weights and measures is within the power of Congress, it has never exercised this power beyond adopting for the use of custom houses the English system, and legalizing the use of the metric system. The English system is in general use throughout the country, each State government compelling the instruments used within its jurisdiction to conform to standards furnished by the general government. In scientific work, however, the metric system is largely in use, and there is a growing opinion that for the sake of international trade it should be made the standard of the country.

Counterfeiting.—The power of Congress over the money of the country would be practically useless were it not connected with another power:

To provide for the punishment of counterfeiting the securities and current coin of the United States. (Art I., Sec. 8, Cl. 6.)

To *counterfeit* is “to copy or imitate without authority

or right, and with a view to deceive or defraud by passing the copy for the original or genuine.” It is counterfeiting even to issue a coin of equal weight and purity with that of the Government. Under the power to borrow money there have been issued from time to time bonds or promises of the Government to pay certain sums of money at certain times. These, and the paper currency of the Government, which is constantly in circulation, constitute the securities of the United States. Besides these, there are postal and internal revenue stamps. The chief value of all these depends upon their genuineness, and it was to prevent their imitation that this power was given to Congress. Counterfeiting has, therefore, been declared a crime, and severe punishments are prescribed for those detected in it. Nor is this all. The crime is considered twofold, as against the Government and as against the people, for the punishment of which latter offense the several States have also enacted laws.

Postal Service.—Congress has power “to establish post-offices and post-roads” (Art. I., Sec. 8, Cl. 7). In the exercise of this power the Government comes in direct contact with the greatest number of people. The handling of the mails is a matter too extensive to be conducted satisfactorily by private enterprise. Formerly communications were carried by slaves or other messengers; but the development of trade, necessitating prompt and safe transmission of mails, demanded a cheap and certain postal service available to the general public. This could best be obtained by giving its control to the federal government. At the time of the Constitutional Convention this power was not deemed of particular consequence.

Madison spoke of it as “a harmless power which may, perhaps, by judicious management become productive of great public convenience.” At that time, however, it took four weeks to send a letter from Philadelphia to Boston and receive a reply, and the rate of postage was six cents for any distance less than thirty miles, with a maximum charge of twenty-five cents for a distance exceeding four hundred and fifty miles.

This provision includes the power to designate the various classes of mail matter and fix the rates of postage, to provide for the transmission of money by post, and through treaties with other nations arrange for the forwarding of mails to any part of the civilized world. Through its extension every hamlet has been provided with a post-office, while in cities and many rural sections there is a free collection and delivery of mail. All roads within a State, including railroads, canals and rivers, become by law “post-roads” when the mail is transported over them, and whatever may be the obstruction to ordinary traffic, whatever mobs may do to impede the passage of trains, free progress is given to the stage or train which carries the United States mail. For some officers of the Government in the conduct of official business the mail is carried free. This is called a *frank* or *franking privilege*; and severe penalties are imposed upon any one using a frank for other than official business. Congress has also made laws to prevent the sending through the mails of explosives, poisonous insects and reptiles; publications, pictures and communications of an immoral character; and other similar abuses of the postal service.

Patents and Copyrights.—Another power given to Congress is:

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. (Art. I., Sec. 8, Cl. 8.)

This is exercised by the granting of letters patent and copyrights. The idea embodied in this provision arose from a desire to encourage invention and research, on the theory that it would increase the general welfare of the country. If new inventions became at once free to the world, it was seen that men would not spend the time necessary to their perfection, and the development of the arts would be impeded. But to give them the exclusive and unending benefit of their discoveries and inventions was deemed unwise, since it would create a perpetual monopoly. Therefore the privilege was limited.

Letters Patent.—*Letters patent* are official documents granting to the recipient or his representatives the sole right for the period of seventeen years to make, use and sell, within the United States and its territories, an article invented or discovered by him. A person making an invention can either obtain a patent at once, or, if he desires further time to perfect his work, can protect himself for the period of one year by taking out a *caveat*. This is done by filing in the Patent Office at Washington a description of his invention. If, however, he desires a patent, he must make application in writing to the Commissioner of Patents at Washington, fully describing his invention and its purpose, with a claim as to its novelty. Oftentimes a model is required to be sent with the

application, and if the invention or discovery is a compound or composition of matter, the applicant may be required to furnish specimens of the ingredients sufficient for an experiment. If, after examination, it appears that the invention is novel or new, a patent will be issued.

Copyrights.—A *copyright* is an exclusive privilege granted to a person or his representatives for the period of twenty-eight years, with the privilege of renewal to himself or his widow or children for the further term of fourteen years, to print, publish, make or sell some literary or artistic production. Copyrights are issued upon books, maps, musical and dramatic compositions, paintings, engravings, photographs, statuary, designs and numerous other productions. In order to procure a copyright the applicant must, before publication, deliver or mail to the Librarian of Congress at Washington a printed copy of the title page of the book or description of the article, upon which an entry of the copyright is made in the official records. Within ten days after the publication he must also deliver to the Librarian of Congress two copies of the book or composition; or if a painting, engraving, statue or design, a photograph thereof. To protect himself in his production he is required to print on the title page of the book or the one next following, or upon some conspicuous place on his map, design, picture or other article, the following: “Entered according to act of Congress in the year [date] by [name] in the office of the Librarian of Congress,” or the words, “Copyright [date] by [name].”

Infringements.—The issuance of a patent or a copyright is not an absolute guaranty by the Government of the

rights described in it. For if there has been a prior patent or copyright which covers the same invention or publication, the subsequent patentee or holder of the copyright obtains no right to manufacture, publish or sell the invention or publication, and in case he does so, he is liable to a prosecution for infringement in the United States courts, and the payment of damages.

Exterritorial Power.—Power is also given to Congress to

define and punish piracies and felonies committed on the high seas, and offenses against the law of nations. (Art. I., Sec. 8, Cl. 10.)

PIRACY is defined as “robbery or forcible depredation on the high seas without lawful authority.” On land the crime of highway robbery corresponds to it.

HIGH SEA is the uninclosed portion of the ocean, three miles outside of the general line of the coast. A *felony* is a crime of a high order whose punishment is death or long imprisonment.

LAW OF NATIONS is the system of justice recognized by civilized nations as that which ought to control their intercourse with each other.

The provision relating to offenses against the Law of Nations has been judicially held to apply to offenses on the high seas, but the language of the Constitution would seem to bear a broader interpretation.

This power was given to Congress because such matters were beyond the control of the several States, and because in our relations with other nations the national government is held responsible for all infringements of their rights or those of their subjects; and unless power resided in the Government to punish such offenses, frequent controversies would result and become a constant menace to our peaceful relations.

For the purpose of supplying courts for the trial of piracies and other crimes in violation of the United States statutes, Congress was authorized "to constitute tribunals inferior to the Supreme Court" (Art. I., Sec. 8, Cl. 9). Of these courts and their jurisdiction mention will be made in a later chapter. (See pages 159, 165.)

Citizenship.—One of the perplexing questions during our national life has been that relating to citizenship. For many years it was generally maintained that there was no such distinctive character as that of "a citizen of the United States." The title "citizen of a State" was long recognized, and as such a person was considered a citizen of the United States. But this excepted from citizenship all residents of the Territories and the District of Columbia, these not being States. This question was removed by the adoption of Amendment XIV., which provided that:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. (Sec. 1.)

Citizenship implies correlative obligations; that is, allegiance, or fidelity and obedience on the part of the citizen, and protection on the part of the Government. Thus a citizen of the United States owes to the Government certain duties, as sharing in its defense and support and aiding in the execution of its laws. Since in our relations with foreign powers we are not recognized as individual States, but as a nation, an American citizen is everywhere entitled to demand the support and protection of the full power of the United States.

Determination of Citizenship.—Citizenship is determined in two ways. First, all persons are citizens who are born within the United States and subject to its jurisdiction. This provision includes people of all races and of both sexes, except Indians. It also includes children of Americans who at the time of their birth are temporarily without the country, but it does not include children of foreign representatives or travelers born when the parents are temporarily residing within the United States. Second, all persons are citizens who are naturalized within the United States. Naturalization is restricted by law to persons of the white and black races, and Japanese, Chinese and others are excluded.

Naturalization.—*Naturalization* is the process by which a citizen or subject of a foreign nation is made a citizen of the United States. The only privilege of a native-born citizen which a naturalized citizen does not possess is that the former is qualified to become President or Vice-President of the United States. It may be observed that citizenship and the right of suffrage are separate and distinct rights. The first is granted by the general government, the latter by the States. Citizenship does not depend upon age or sex, two conditions which generally determine the right to vote.

Rules of Naturalization.—For the purpose of conferring citizenship, Congress is empowered “to establish an uniform rule of naturalization” (Art. I., Sec. 8, Cl 4). This rule is briefly as follows:

A foreigner, residing within this country, known as an *alien*, is required :

1. To declare on oath before a Circuit or District Court of the

United States, or a Court of Record of a State, two years prior to his naturalization, that it is his intention to become a citizen and that he renounces allegiance to every foreign state.

2. He must at the same time swear to support the Constitution of the United States.

3. After a residence of five years within the country and at least two years after declaring his intention, the alien may be fully admitted to citizenship by presenting to one of the above-mentioned courts proof of the declaration of his intention, of his residence within the country for five years and within the State for one year, and of a good moral character ; and

4. He must, at such time and place, renounce any title or order of nobility which he may possess.

The Court, if satisfied, then makes an order declaring him to be a citizen, and there is issued to the applicant a certificate to that effect, which is in every place evidence of his citizenship. This rule applies to both males and females, but there are certain exceptions in the case of aliens not more than eighteen years of age at the time of their arrival in this country, and a further exception which extends citizenship to all children who are minors at the time of the parent's naturalization.

Rights of Citizens.—We have seen the privileges attending citizenship in our relations with foreign powers. There are also domestic privileges.

The citizen of each State shall be entitled to all the privileges and immunities of citizens in the several States. (Art. IV., Sec. 2, Cl. 1.)

A person removing from one State to another is entitled in his new home to all the rights—social, civil and religious—that he would have possessed had he been born there. But as he takes up these new rights, he must relinquish those of his old home. To illustrate: In Kansas, women can vote. In New York they cannot. If a New York woman should remove to Kansas, she would there

be entitled to the right of suffrage. But if a Kansas woman removed to New York, she would not be permitted to vote in the latter State. This principle applies to all relations of life. No State can make laws or grant rights that extend beyond its borders. Nor can it establish rules to prevent people from coming there to live, nor impose upon such new-comers restrictions which are not equally binding upon its own citizens. Lest, however, any question should ever arise, particularly in reference to the freedmen, there was inserted in Amendment XIV. the provision that:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ;
. . . (Sec. 1.)

National Bankruptcy Laws.—Another important power of Congress is to establish

uniform laws on the subject of bankruptcies throughout the United States. (Art. I., Sec. 8, Cl. 4.)

It is a fundamental principle of business that all men should pay their just debts. In no other way can trade be conducted with profit and security. Yet there come times when under strained financial conditions honest men throughout the country cannot meet their obligations. Pressure by ordinary legal methods would not be able to force collections, but would cause great hardships, and oftentimes discouragement, to the debtor, a condition injurious both in business and civil relations. It has therefore been deemed expedient from time to time to relieve debtors under certain conditions by compelling

creditors to receive all a debtor's property in full satisfaction of his debts, even though much less in amount, thus reëstablishing credit and encouraging worthy men in their quest for wealth. Such laws existed in Greece and Rome ; England has had them for many years ; and before the Revolutionary War bankruptcy laws existed at various times in several of the colonies. In our own national history there have been four acts of this character—in 1800, 1841, 1867, and the present one, which went into effect July 1, 1898.

A **BANKRUPTCY LAW** is one which discharges a debtor from liability for past debts upon the surrender by him of all his property for the benefit of his creditors.

AN **INSOLVENT** is a person whose property, other than that concealed or transferred to defraud creditors, is not sufficient at a fair valuation to pay his debts.

A **BANKRUPT** is such a person, when so declared by the courts, after surrendering his property to be applied upon his debts.

PROCEEDINGS IN BANKRUPTCY: Bankruptcy is either voluntary or involuntary; that is, the insolvent may file a petition with the court giving a complete list of his property, a statement of his debts, to whom owed, and his inability to pay them and asking to be adjudged a bankrupt; or creditors of an insolvent may file such a petition, in which they set forth the financial condition of the insolvent and the performance by him of certain so-called "acts of bankruptcy," such as secreting his property with the intent to defraud his creditors, and ask that he be adjudged a bankrupt. These petitions must be under oath. After an investigation into the facts presented by the petition, the court may or may not adjudge the person a bankrupt. If it does, the creditors are allowed to prove their claims against him, and usually a trustee of his property is appointed, who, under the direction of the court, takes charge of the bankrupt's property, collects and reduces it to money, and distributes it in the following manner—to pay:

1. Taxes due to the United States, State, county, town or city.
2. Costs of the proceedings.
3. Wages to workmen.
4. Debts.

After such distribution, and within twelve months after he has been declared a bankrupt, the court, if satisfied of his honesty and good conduct, may order his discharge from bankruptcy, after which he may begin again the acquisition of property without fear of its being taken to satisfy his former obligations.

State Bankruptcy Laws.—The power to enact bankruptcy laws is not exclusively vested in Congress. From time to time States have passed such laws, and it has been held by the courts that they are constitutional except when the power is actually being exercised by Congress, or the State laws conflict with those of the national government.

Military Powers.—One of the experiences common to all nations is war. In 1787 we were but recently through with the Revolution, and the necessity of war powers in the general government was very evident. Under the Articles of Confederation, Congress had the right to make requisitions of men upon the several States, but no power to enforce them. Such a system was inherently weak, and might have resulted in disaster had it not been for the patriotism of the people. To remedy this defect, and to take war powers away from the several States, whose hasty action might involve the whole country in conflict, Congress was given power:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; [For definition of *letters of marque and reprisal*, see page 196.]

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress. (Art. I., Sec. 8, Cl. 11, 12, 13, 14, 15, 16.)

Army.—Incident to the power to declare war, and necessary to give it effect, is the power to raise and support armies. This includes the raising of troops by enlistment (voluntary enrollment) or by conscription (forced enrollment), the determination of their number and service, purchase of supplies and arms, construction of fortifications, arsenals, barracks and hospitals, instruction of officers and men in schools and otherwise, and the performance of any other acts necessary to organize efficient armies. But, mindful of the powers which armies had assumed in the past and fearful of their repetition, there was added the provision that appropriations should not be made for a longer term than two years. Money is a necessity for an army. Without power of acquiring property, it is dependent for its support upon the people, and they, under this provision, through their representatives, can control its existence by granting or refusing to grant supplies.

Navy.—The power to provide a navy was necessary on account of our extended seacoast and the ambition of the people to engage in commerce. This power includes the enrollment of seamen, the construction of vessels, the establishment of navy yards and docks, the purchase of supplies and munitions, the instruction of officers and

men in schools or otherwise, and the performance of any other acts necessary to make an efficient navy.

The Military Law.—As the army and navy are created by the general government, Congress was given the power to make regulations for their government. This has been done by the enactment of a code of rules, called the “Military Law,” which prescribes tactics and arrangement of troops, classifies officers and men, regulates the pay of the service, defines military and naval offenses, and provides for the punishment of offenders by the creation of tribunals called “courts-martial” and by the establishment of their jurisdiction and procedure.

Militia.—There has always been in this country a fear of a large standing army—that is, a disciplined body of men whose sole occupation is military service—and it has been the policy of the Government to maintain only a small military force to do police duty among the Indians and guard the frontiers. If a greater force was needed, it was believed that the best defenders of the country were its citizens who have homes and property to protect. So the main reliance of the country has been upon its militia, which is defined as consisting, with a few exceptions, of “every able-bodied male citizen of the respective States who is of the age of eighteen years and under the age of forty-five years.” And this body Congress was given power to call out—to execute the laws of the United States, to suppress insurrections and to repel invasions. By virtue of this provision Congress has conferred upon the President power to summon the militia, which then becomes a part of the military force of the United States and subject to the regulations of the Military Law.

Organization of Militia.—Such a force, composed of men engaged in civil pursuits, would be useless unless armed and trained ; so to Congress was given the power, which it has exercised in various ways, of preparing the people for military duty, particularly by the establishment of uniform tactics and rules for drills and instruction, which action has been further extended by the States. Profiting by the experience of the Revolution, in which the militia often refused to obey officers other than those from their own States, it was provided that the appointment of the regimental officers of the militia should be left entirely to the several States.

Federal Territory.—Congress had not always held its meetings at the same place, but had met at various cities. This made the Government dependent for support and protection upon the State in which it met. These were not always afforded, as when on an occasion Congress was forced to adjourn its sitting at Philadelphia and continue it at Princeton (June 21, 1783). To the end that the Government might have a permanent seat, the State of Maryland granted to it a tract of land on the northern bank of the Potomac, known as the District of Columbia, in which is the capital city, where are located the Capitol, the official residence of the President, known as the “ White House,” and the offices of the various departments of the Government. Besides this tract there are various places throughout the country where Congress has purchased lands and erected arsenals, navy yards, military posts, forts and other buildings needful for the conduct of the government. Over all these places Congress has exclusive jurisdiction. For it was given power:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. (Art. I., Sec. 8, Cl. 17.)

This jurisdiction must be recognized by the State in its cession, otherwise it does not exist. The inhabitants of such places cease to be citizens of the State, but retain their United States citizenship.

General Powers.—The foregoing are, in the main, the specific powers granted to Congress. Other grants will be found in other sections of the Constitution, and they will be considered in their proper places. These powers contain in themselves the right to employ all means necessary to their execution. It has been said:

However government is constituted, infinitely the greater part of it must depend on the exercise of powers which are left at large to the prudence and uprightness of ministers of state.

It was not practicable to enumerate all the means which Congress might employ in the exercise of its powers. But to satisfy any doubt, it was provided that Congress should have power:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof. (Art. I., Sec. 8, Cl. 18.)

Implied Powers.—About these powers have been waged many fierce political conflicts ; and upon the laws enacted

under them have arisen some of the most noted legal questions of our history. The courts have decided in favor of the existence of broad powers in Congress, and some of the most radical legislation of the country has been enacted and sustained under such decisions. Thus, under the provision granting the power to borrow money, it has been held that Congress could establish national banks, a large part of whose capital must be invested in national securities, by which a demand for them is created and governmental borrowing is made easier. So, also, to carry out the various enumerated powers, the courts have declared that Congress could enact laws incorporating railroads, purchasing foreign territory, making United States notes legal tender, establishing a protective tariff and performing many other acts broader and more important than those authorized by express provision.

POWERS OF CONGRESS.

Civil.

<i>Raise revenue</i>	Taxation	Direct	{ Capitation. Land. Personal property.	
		Indirect	{ Duties on { Specific. imports { Ad valorem. Excises.	
				Borrow money.
<i>Regulate commerce</i>	Foreign and Domestic	{ Make shipping regulations. Improve harbors. Build lighthouses. Install life-saving stations.		
		{ License pilots.		
		{ Establish quarantines, etc.		
		Domestic	{ Between States.	
	{ With Indians.			

<i>Maintain business stability</i>	{	Coinage	{	Minting.	{	Foreign.	
				Regulation of coin values		Domestic.	
	{				Weights and measures.	{	
					Bankruptcy laws.		
<i>Regulate postal service</i>	{	Foreign	{	Carriage of mails.	{		
				Postage.			
	Domestic	{	Post-offices.	{			
			Post-roads.				
			Postage.				
<i>Encourage science and useful arts</i>	{	Patents	{	Caveat.	{		
				Letters patent.			
	{					Copyrights.	{
<i>Define crimes</i>	{	Exterri- torial	{	Piracy.	{		
				Felonies on the high seas.			
				Crimes against the law of nations.			
	{					Territorial—Counterfeiting	{
Securities.							
<i>Regulate citizenship</i>	{			By defining citizenship.	{		
				By naturalization.			
<i>Govern territory</i>	{			For seat of government (less than 10 miles square).	{		
				For forts, magazines, arsenals, dock-yards and other buildings.			
(obtained from States)							

Military.*Declare war.**Grant letters of marque and reprisal.*

<i>Make rules as to captures</i>	{	On land.
	{	At sea.

<i>Raise and support armies</i>	{	And make rules for governing
<i>Build and maintain a navy</i>		

<i>Organize and call out militia</i>	{	Execute federal laws.
		Suppress insurrections.
		Repel invasions.

5. LEGISLATIVE PROHIBITIONS.

Divisions.—Besides the granting of powers, certain legislative prohibitions were imposed by the Constitution.

These prohibitions, with the exception of those contained in the Amendments, are found in the ninth and tenth sections of Article I. They may be divided into three classes : (1) Those relating to the federal government only. (2) Those which apply to both federal and state governments. (3) Those relating to the States only.

Some of these have been already considered, as Section 9, Clauses 4, 5 and 6, and Section 10, Clause 2. (See pages 82, 87 and 88.)

(1) THE PROHIBITIONS UPON THE FEDERAL GOVERNMENT.

Slavery.—The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person. (Art. I., Sec. 9, Cl. 1.)

This provision was the result of a compromise in the Constitutional Convention between the delegates of those States favoring slavery and those in which the system was already prohibited or was fast dying out. Its importance passed away with the extinction of slavery by the Civil War.

Habeas Corpus.—The privileges of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. (Art. I., Sec. 9, Cl. 2.)

This right, as we have seen (page 22), was established early in the growth of English institutions. The power to suspend it had, in the past, been much abused by tyrannical rulers, and it was to avoid such misuse by this Government that the provision was enacted, which did not

entirely destroy the power of suspension, but limited it to times of extreme necessity.

Direct Taxes.—No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken. (Art. I., Sec. 9, Cl. 4. See page 82.)

Appropriations.—No money shall be drawn, from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time. (Art. I., Sec. 9, Cl. 7.)

An *appropriation* is an act providing for the expenditure of a certain sum of money to be drawn from the treasury, and stating the purpose for which it shall be expended. It has been seen that Congress possesses the power of taxation. It follows that this branch of the government should disburse the funds so raised, for Congress directly represents the taxpayers. This prohibition is particularly a restriction upon the Executive Branch.

Preferred Ports.—No preference shall be given, by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another. (Art. I., Sec. 9, Cl. 6. See page 88.)

(2) THE PROHIBITIONS APPLICABLE TO BOTH THE UNITED STATES AND STATES.

Bills of Attainder and Ex Post Facto Laws.—No bill of attainder or *ex post facto* law shall be passed. (Art. I., Sec. 9, Cl. 3.)
No State shall . . . pass any bill of attainder, *ex post facto* law, . . . (Art. I., Sec. 10, Cl. 1.)

A *bill of attainder* is a legislative act which imposes a

punishment without a judicial trial. If the punishment be less than death, the act is termed a *bill of pains and penalties*. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties.

Formerly bills of attainder were extensively used to overawe the people and keep them in subjection. The struggles incident to the rise of English liberties were marked by many examples of their arbitrary use, particularly the "Great Act of Attainder" of 1688, which comprised a list of over two thousand persons. The chief severity of the punishment in such cases was that the condemned person was rendered incapable of inheriting property from an ancestor or of transmitting it to his children.

Bills of attainder are unjust in the highest degree, in that they deprive men of life, liberty or property without a trial, and often without proof of guilt or the opportunity of defense. In an early case a justice of the Supreme Court said:

It [this prohibition] very probably arose from the knowledge that the Parliament of Great Britain claimed and exercised the power to pass such laws, . . . The ground for the exercise of such legislative power was this, that the safety of the kingdom depended on the death, or other punishment, of the offender. With few exceptions, the advocates of such laws were stimulated by ambition or personal resentment and malice. To prevent such and similar acts of violence and injustice, I believe the federal and state legislatures were prohibited from passing any bill of attainder.

An *ex post facto law* is a criminal law. It is defined by the Supreme Court of the United States as:

Every law that makes an action done before the passage of the law, and which was innocent when done, criminal and punishes such action;

Every law that aggravates a crime, or makes it greater than it was when committed;

Every law that changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed;

Every law that alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense, in order to convict the offender.

Such laws are manifestly unjust and oppressive. For with the possibility of their enactment no man is secure in his life, his liberty or his property. The most innocent act of to-day may by the law of to-morrow be declared a grave offense and be visited with extreme punishment. Chief Justice Marshall has said:

The legislature is prohibited from passing a law by which a man's estate or any part of it shall be seized for a crime which was not declared by some provision of law, to render him liable to that punishment.

Titles of Nobility.—No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State. (Art. I., Sec. 9, Cl. 8.)

No State shall . . . grant any title of nobility. (Art. I., Sec. 10, Cl. 1.)

Nobility is an adjunct of royalty, and titles create class distinction, which is contrary to the provision of the Declaration of Independence, which declares that "all men are created free and equal," and is antagonistic to the institutions of a republic, which depends for its life upon the absolute equality of all the people.

In the same spirit is that part of the prohibition relative to officers of the government. The duty to the Government should be paramount to all others. Oftentimes

the prosperity, if not the very existence, of the nation depends upon the loyalty of its representatives and officers. To guarantee fidelity to this trust, the provision was made so as to prevent them from being bribed and their official acts influenced by foreign states. From time to time various nations and rulers have made presents to our presidents and other officials, but these have been surrendered to the Government, and are preserved in the National Museum at Washington.

(3) THE PROHIBITIONS UPON THE STATES.

Miscellaneous.—No State shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make anything but gold and silver coin a tender in payment of debts ; pass any . . . law impairing the obligation of contracts, . . . (Art. I., Sec. 10, Cl. 1.)

For the purpose of establishing uniformity in our foreign relations, the several States surrendered to the general government all their sovereign rights and powers in external affairs. If the States were permitted to make treaties and alliances, it would result in danger to the Union, since they might enter into agreements which would be antagonistic to the interests not only of other States, but of the nation at large. Or, if a State were allowed to issue letters of marque and reprisal, it might involve all others in war. The prohibition against State coinage rests on much the same principle, for to permit it would destroy the very uniformity in our currency which we have seen to be necessary to its usefulness.

Bills of Credit.—*Bills of credit* are paper issued by a government, in which it promises to pay at some future

time certain sums of money to the persons holding it. During the Revolutionary War they were issued in vast quantity and circulated as money among the people. Not being paid when due, they rapidly depreciated in value, till they became practically worthless. As a result great financial losses followed, and public and private credit was destroyed. This prohibition was inserted to avoid a recurrence of such evils. Bills of credit must not be confounded with *state bonds*, which are contracts on the part of the State to pay for services rendered to it or for money borrowed for present use. "They are," says Chief Justice Marshall, "paper intended to circulate through the community, for its ordinary purposes, as money." The provision relating to tender in payment of debts was for the purpose of further avoiding the dangers of a debased currency.

Contract Obligations.—The provision restraining a State from passing any law impairing the obligations of contracts is of inestimable value, for it enters into every relation of life. The home, business, society are all affected by contract relations, for a *contract* is an agreement between two or more persons for a consideration to do or not to do some particular thing. It is therefore necessary to the security of human relations that an agreement once made should be undisturbed. Otherwise there would be no safety in trade or the affairs of life. Prior to the Constitution it was no uncommon occurrence for laws to be enacted without regard to their effect upon existing contracts. The insecurity thus occasioned was the cause of this provision, which extends not only to contracts between individuals, but also to those between the individ-

ual and the state. The extent of the prohibition was early decided by the Supreme Court in the celebrated Dartmouth College Case, which arose over an attempt by the legislature to alter the charter of the college. In a later case the same court said:

It has been decided that a contract entered into between a state and an individual is as fully protected by the tenth section of the first article of the Constitution as a contract between individuals.

Commercial Regulations.—No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. (Art. I., Sec. 10, Cl. 2.)

No State shall, without the consent of Congress, lay any duty of tonnage,* keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. (Art. I., Sec. 10, Cl. 3.)

The exercise of any of the powers prohibited by these clauses would so evidently conflict with those granted to Congress, or would be so liable to cause unjust discriminations by the States, resulting in endless confusion, if not serious complications, that no discussion seems necessary. A recital of the subjects is sufficient to show that they should be prohibited to states which are members of a union.

* Tonnage duty is a charge upon ships based upon their capacity.

PROHIBITIONS.

Upon Federal Government.

- | | | |
|---|---|---------------------------|
| { | To prohibit the <i>Slave Trade</i> before 1808. | |
| | To suspend the writ of <i>Habeas Corpus</i> | { Rebellion.
Invasion. |
| | except in case of | |
| | To lay <i>Direct Taxes</i> except in proportion to census. | |
| | To levy export duties. | |
| { | To <i>Draw Money</i> from treasury except as appropriated by law. | |
| | To make <i>Preferred Ports</i> . | |

Upon Federal and State Governments.

- | | | |
|---|--------------------------------------|-------------------------------|
| { | To pass | { <i>Bills of Attainder</i> . |
| | | { <i>Ex Post Facto Laws</i> . |
| { | To grant <i>Titles of Nobility</i> . | |

Upon State Governments.

- | | | | |
|-------------------------------------|---|--|--|
| Without
exception | { | To enter into | { Treaty.
Alliance.
Confederation. |
| | | To grant letters of marque and reprisal. | |
| | | To coin money. | |
| | | To emit bills of credit. | |
| | | To make anything legal tender except gold and silver coin. | |
| Except by
consent of
Congress | { | To pass laws impairing contract obligations. | |
| | | To lay imposts and duties on | { Imports.
Exports. |
| | | To lay duty on tonnage. | |
| | | To keep in time of peace | { Troops.
Ships of war. |
| | | To enter into an agreement with | |
| | | To engage in war unless | { actually invaded.
in imminent danger. |
| | | | |

6. PECULIAR POWERS OF SENATE AND HOUSE.

The Powers and Prohibitions which we have considered apply to *both* houses of Congress. There are, how-

ever, some rights and powers peculiar to each, such as the control of its own organization and members (Art. I., Sec. 5, Cl. 1 and 2), and certain others relating to the conduct of the government.

HOUSE OF REPRESENTATIVES.

Financial Bills.—The most important right possessed by the House alone is that:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills. (Art. I., Sec. 7, Cl. 1.)

The spirit of this provision came from the English constitution. The growth of political power in the Commons had resulted from questions relating to taxation. The people, who paid, demanded the right to levy taxes. In 1407 the sole authority to originate money bills became fixed in the House of Commons. A question having arisen between the two houses, Henry IV. ordained that the Commons should “grant,” and the Lords “concur in,” appropriations of money, which should be reported to the king “by the mouth of the Speaker of the Commons.” Attempts were made by the Lords to encroach upon this power, which the Commons successfully resisted, even asserting that the Lords could not amend, but had only the right to consent to or reject the legislation. This limitation was in force in England at the time of the Constitutional Convention. Doubtless the success of the practice influenced the Convention in placing a similar provision in the Constitution, but the reasons for it are less apparent than in the English system. The

two houses of Congress do not represent different classes. Still, the constant renewal of the House by popular elections gives the people a nearer approach to legislation through that body than through the Senate, and they are able in a measure to control the demands made upon their resources. Legislative custom has further extended this exclusive right to the initiation of bills for general expenditures.

Impeachment.—"The House of Representatives . . . shall have the sole power of impeachment" (Art. I., Sec. 2, Cl. 5). This, with the power of the Senate to try all cases of impeachment (Art. I., Sec. 3, Cl. 6), will be considered under the Judicial Branch of the government. (See page 156.)

SENATE.

Executive Powers.—The peculiar powers of the Senate, which consist in the exercise of certain executive functions, as confirmations of treaties and appointments, will be treated in connection with the Executive Branch. (See pages 129 and 131.)

7. THE PRESIDENT AND LEGISLATION.

Relation to Congress.—Before concluding the consideration of the Legislative Branch of the government, it remains to note the relation of the President to the law-making power. He is not a member of either house. Only in the case of a disagreement between them as to the time to which to adjourn can he interfere with their conduct (Art. II., Sec. 3). His character as a legislator resembles that of a third house. It has been said:

The President represents the people at large—the Nation; the Senate, the people in separate commonwealths—the States; the House of Representatives, the same people in small communities—Congressional Districts.

Veto Power.—Still, in his legislative capacity he cannot originate legislation. His power lies in his authority to check congressional action.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bills shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill (Art. I., Sec. 7, Cl. 2 and 3.)

This power of the President is called the “veto power,” and his neglect to sign a bill remaining in his hands after

the adjournment of Congress is called a "pocket veto." The veto power is somewhat monarchical in its character, and was derived from England, though an early and democratic form was exercised by the Roman tribunes. It is worthy of note that no English ruler has employed the veto since 1707, while it has been constantly exercised by the President, and has, in this country, prevented much harmful legislation. It is, however, not an absolute power, for it may be overridden by a sufficient majority in Congress, in which case the bill is said to be passed "over the President's veto"; but so great is the influence of the Executive that such action is rarely attempted and seldom successful.

CHAPTER III.

THE EXECUTIVE BRANCH.

1. THE PRESIDENT AND VICE-PRESIDENT.

Separate Executive.—The Convention of 1787 adopted at the very outset the principle that the executive branch of the government should be separate and distinct from the legislative and judicial branches.

Executive under the Confederation.—A large part of the weakness of the Confederacy had been attributed to the cumbersome method of vesting all governmental powers in one representative body. But this was only a partial cause, for the executive powers granted by the Articles were so limited that they would not have been efficient even if exercised by a distinct department. The separation of the legislative and executive branches is not absolutely essential to a strong and stable government. The laws of Great Britain are to-day administered by a ministry which is, in fact, a committee chosen from the party having a majority in the House of Commons.

Reason for a Separate Executive.—In 1787 English writers and statesmen *believed* that the government of England possessed distinct branches, while in her American colonies such distinction had been *actual*. The delegates, therefore, familiar with this principle and believing

that the unity of powers under the Confederation had been a failure, deemed this separation necessary, and adopted it as the basis upon which to erect the new government.

Difficulty of Organizing Branch.—There was no subject more carefully discussed or in regard to which there was more diversity of opinion than the organization of the executive department. There was ample material in the governmental experience of the Confederacy for the construction of the legislative branch, but the executive powers to be granted presented a subject which caused much speculation, debate and the gravest anxiety.

Number of Executive.—The first step was to decide the number of persons who should constitute the executive. Arguments were advanced in favor of three persons with equal powers, and also in favor of a single executive. To the former proposition it was objected that any division of responsibility would induce corruption, that disagreements would delay and weaken executive action and that it was needless for this branch of government to be deliberative in character, as its sole duty was to enforce the laws. These objections, and the experience of most of the delegates in their state governments, prevailed, and it was decided that “the executive power shall be vested in a President of the United States of America” (Art. II., Sec. 1, Cl. 1).

Election of President.—The manner of his selection was then considered. Upon this there prevailed the widest difference of opinion, and it was not finally decided until the last two weeks of the sessions. The “Virginia Plan” provided that the executive should be appointed by the

national legislature. Three other modes were proposed—(1) by electors chosen by the people ; (2) by the state executives ; and (3) by the people directly. The first of these propositions was, after much discussion, adopted, and it was provided that:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress ; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President ; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote ; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President. (Art. II., Sec. 1, Cl. 2 and 3.)

In 1804 the third clause was amended as follows:

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. (Amendment XII.)

Electoral College.—The electors thus chosen in the several States form the “Electoral College.” It was the belief of the framers of the Constitution that the electors in each State would form a deliberative body which would discuss the merits of different statesmen and cast their votes for the one best fitted for the presidency ; but with the first election in which party lines were strictly drawn (1796), the electors cast their ballots for the persons who were the recognized candidates of political parties ; and since that time, with but a few unimportant exceptions, the electors have voted for their party’s candidate. It is the usual custom that a State’s electors are voted for on a general ticket by all the qualified voters of the State. Each State, however, may prescribe its method of selecting electors. In the election of 1892 in Michigan, two electors were chosen on a general ticket by the State at large, and one by the people of each congressional district.

Time of Election and Meeting.—The Constitution provides that:

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States. (Art. II., Sec. 1, Cl. 4.)

The election of electors occurs on the first Tuesday next after the first Monday in November of each year divisible by four. The meetings of the electors in their respective States take place at the state capitals on the second Monday in January following their election. After the votes have been cast, the electors prepare triplicate certificates of the result, signed by all of them ; one

of these is mailed, and another sent by special messenger, to the President of the Senate ; the third is deposited with the District Judge of the federal district where the meeting is held.

Counting the Ballots.—The counting of the electoral votes, which occurs on the second Wednesday in February, has been done under joint resolution of the two houses of Congress, but the Constitution does not provide how it shall be done or who shall determine between the certificates received from two contesting sets of electors in the same State ; this was fixed by statute in 1887.

President's Term of Office.—In determining the President's term of office the Convention was influenced chiefly by the method of his selection. The original proposition was for a term of seven years, as it was deemed that a long term would make him more independent of the legislative branch ; but when the choice of the executive was given to a representative body entirely distinct from the national legislature, the reason for a long term disappeared, and it was provided that "he shall hold his office during the term of four years," . . . (Art. III., Sec. 1, Cl. 1). Through custom, however, it has become a settled rule that no person shall fill the office of President for more than two successive terms, a rule established by the action of Presidents Washington and Jefferson, who both declined to become candidates for reëlection after serving for two terms.

Time of Inauguration.—By a resolve of the Congress of the Confederacy, the President chosen under the Constitution was to be inaugurated on the first Wednesday in March, 1789. This happened to be the fourth day of the

month, so that the terms of succeeding Presidents have all commenced on that date, except when it is Sunday, and then on the succeeding day.

Ceremony of Inauguration.—The ceremony of inauguration takes place at Washington. An hour or so before noon the President-elect is conducted by the committee having the matter in charge to the Executive Mansion, where he joins the outgoing President, and seated at his left they are driven to the Capitol. In the presence of the assembled people the oath provided for in the Constitution (Art. II., Sec. 1, Cl. 8) is administered upon an open bible by the Chief Justice of the United States. The President then delivers an address, after which, accompanied by the former President seated at his left, he returns to the Executive Mansion and reviews the military and civic organizations which form the inaugural procession.

Qualifications.—The provisions of the Constitution relating to the qualifications for President are that:

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. (Art. II., Sec. 1, Cl. 5.)

The provision relative to a person who was a citizen of the United States at the time of the adoption of the Constitution was only applicable for a short period after 1787. The further provision that he must have resided fourteen years within the United States should probably be read in connection with the last, but may apply to the

whole clause. The question has never yet arisen. The qualification that the President should be a landowner was discussed by the Convention, but was rejected as limiting the choice of the electors to a class, and thus being contrary to republican institutions.

Compensation.—A subject constantly before the Convention, when considering the mode of electing the President, was the evil of making the latter in any way dependent upon the legislative branch. In order, therefore, to make the President independent of Congress for his support, the Constitution provides that:

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States, or any of them. (Art. II., Sec. 1., Cl. 7.)

The Government, however, pays the larger part of the President's official expenses. The act of 1793 fixed the annual salary of the President at \$25,000, which was increased in 1873 to \$50,000 and in 1909 to \$75,000.

The Vice-President.—Since the President was to be elected for a fixed term, it was provided that:

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President [chosen for the same term (Art. II., Sec. 1., Cl. 1)], and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected. (Art. II., Sec. 1, Cl. 6.)

Election of Vice-President.—The provision for the election of the Vice-President (which is made in Article II., Section 1, Clause 3, and changed by Amendment XII.) differed from the provision for the election of the President in the original clause in not requiring a majority of the electoral votes, but only that the person having the next highest number to the President should be Vice-President. On the adoption of Amendment XII., which provided that the electors should designate their choice for President and Vice-President separately, the requirement of a majority was applied to both offices. Another difference is that in case there is no choice of a President by the electors or the "House," "the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President."

Succession to the Presidency.—By force of an act of Congress, which came into effect January 19, 1886, in case of the death, resignation or inability of both the President and Vice-President, the Secretary of State (if he is qualified to be elected President), and after him the Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy and Secretary of the Interior, in this order, will hold the office of President until the disability ceases or another President is chosen. Before 1886 the President *pro tempore* of the Senate and the Speaker of the "House" would, in turn, have succeeded to the Presidency in such an emergency. The death of Vice-President Hendricks in November, 1885, called attention to the fact that, in case of the death of the President, a political opponent might, under the former act, succeed him. To avoid

such a possibility the act establishing the succession was changed.

2. EXECUTIVE POWERS.

Military Power.—The Constitution provides that:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States ; . . . (Art. II., Sec. 2, Cl. 1.)

Although no President has ever taken the field in this capacity, he is responsible for the conduct of military operations and possesses the implied war powers of opening hostilities and instituting a blockade. (See page 197.)

Classification of Civil Powers.—The civil powers of the President may be divided into five classes: 1. The Veto Power. 2. The Appointing Power. 3. The Pardoning Power. 4. The Power to conduct the relations with foreign countries. 5. The Power to administer the internal affairs of the nation.

1. Veto Power.—The Veto Power has been discussed in considering the legislative branch. (See page 118.)

2. Appointing Power.—The Appointing Power is that by which the President

shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law ; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments. (Art. II., Sec. 2, Cl. 2.)

Civil Service Act.—Appointments of this latter class have been limited by an act of Congress, known as the “Civil Service Act,” which establishes a Commission which classifies appointive positions and examines applicants for appointment to the Civil Service, under which term is included “the executive branch of the public service as distinguished from the military, naval, legislative and judicial.” The names of those who pass the examination, which is educational in character, are placed upon a list in the proper class, and an appointment to any classified office must be made from the list of that class. In the “Classified Civil Service,” however, are included no officers whose appointments are subject to the approval of the Senate, or who, holding positions of responsibility, could affect the policy of the Government.

SPOILS SYSTEM.—The limitation of the appointing power by the Civil Service Act was the outcome of a popular movement against what is known as the “Spoils System.” Since the time of President Jackson it had been customary to create vacancies in the civil service by removal for the sole purpose of filling them with members of the political party in control, on the principle that “to the victors belong the spoils.” Activity in the party rather than personal fitness thus regulated appointments. The chief evil of this system was not so much the weakening of the government service through the periodical appointment of inexperienced and inefficient officials as it was its corrupting influence on political parties. “Spoils” became the object of success in elections, and large sums were contributed by those in office to their party organizations to retain their positions, while the chief aim of their political opponents was to obtain the offices. Party principles and great national questions were lost sight of in this scramble for office, until public opinion became so strong against the evil that an organized movement for “Civil Service Reform” was commenced, resulting in the present laws. Its beneficial effects have already been felt

in the improvement in the government service and in lessening the corruption in the political parties.

Executive Sessions.—Nominations by the President of officers for whose appointment the Constitution requires senatorial consent are sent to the Senate by special messenger. The consideration of such nominations, and also of treaties, is held by the Senate behind closed doors, the public being excluded. Sessions of this character are termed “executive sessions,” because the Senate is exercising an executive and not a legislative function. From the fact that they are held *secretly*, the term “executive” is now generally applied to any secret session of the legislative body, without reference to the power which is being exercised.

Appointments during Recess of Senate.—The Constitution also provides that:

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. (Art. II., Sec. 2, Cl. 3.)

This clause applies only to such appointments as require senatorial consent. It is further provided that the President “shall commission all the officers of the United States” (Art. II., Sec. 3).

Removals.—There is connected with the appointing power the implied power to remove by dismissal a civil officer who fails to perform his duties or acts against the policy of the Government. Military and naval officers, however, are removed by court-martial; and members of the judiciary only by impeachment.

3. Pardoning Power.—The Constitution provides that the President

shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. (Art. II., Sec. 2, Cl. 1.)

The pardoning power includes the right of pardon, amnesty, reprieve and commutation of sentence.

A **PARDON** is an act of the executive by which a person convicted of a crime is exempted from the punishment imposed by law. A general pardon, which applies to a number of persons guilty of the same offense, is termed an *amnesty*. A *reprieve* is the temporary suspension of the execution of a judicial sentence. A *commutation* of a sentence is lessening the severity of the punishment which the law imposes.

Necessity of Power.—This power is necessary to rectify errors of justice, but is not applicable to impeachment, because the Court of Impeachment is the highest instrument of the sovereignty, before which even the President and Justices of the Supreme Court can be summoned and tried.

4. The Power to Conduct the Relations with Foreign Nations; Treaties.—This power authorizes the President, “by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur” (Art. II., Sec. 2, Cl. 2). As the local interests of a State may be involved in a treaty, the Senate, which represents the States, is given a voice in its adoption. Thus the President in ratifying a treaty represents the people in general, and the Senate the States. A *treaty*, or a “convention,” as it is sometimes called, is a compact between two or more sovereign states for their general welfare.

TREATY-MAKING.—The usual method of entering into a treaty with a foreign government is as follows : The negotiators, who may be either the Secretary of State and the diplomatic representative of the other government, our minister to the other country and its minister of foreign affairs, or commissioners especially appointed for the purpose, meet and exhibit their credentials, which must be plenary. The usual commission of an ambassador or minister is not sufficient; he must have a special commission giving him power to negotiate this particular treaty.

DRAFTING AND RATIFYING.—The negotiators submit drafts of the proposed treaty and suggest changes until an agreement is reached. It is then prepared in duplicate and the treaty is “celebrated”; that is, signed by the negotiators. In each of these duplicates, or “counterparts,” the text of the treaty appears in English and in the language of the nation with which it is made. The treaty is then delivered to the President, who, if he approves, sends it to the Senate for ratification. When approved by two thirds of the Senators present it is returned to the President, who signs it and causes the Great Seal of the United States to be affixed.

EXCHANGE OF RATIFICATIONS.—The Secretary of State, or a commissioner with a special commission for this purpose, meets a commissioner of the other government, which has meanwhile ratified the treaty, and “ratifications are exchanged”; that is, the treaty signed by the President is delivered to the foreign commissioner and the treaty signed by the sovereign or president of the other country is given to the American representative.

TREATY PROCLAIMED.—As soon as the exchange of ratifications takes place, a proclamation, containing the text of the treaty, is issued by the Secretary of State in the name of the President, and it becomes a law of the United States.

Peace and Armistice.—As peace is made by treaty, the President can, with the consent of the Senate, make peace, and, without such consent, enter into an armistice for the cessation of hostilities, looking toward peace.

5. The Power to Administer the Internal Affairs of the Nation.—This power is implied by the clause, “He shall

take care that the laws be faithfully executed" (Art. II., Sec. 3).

Power to Convene Congress.—In connection with the two powers last discussed, the President "may, on extraordinary occasions, convene both houses, or either of them" (*Id.*). Such occasions may be the consideration of a treaty, the probability of war, the necessity of preserving the credit of the country or providing funds to conduct the government.

3. THE EXECUTIVE DEPARTMENTS.

Created by Congress.—The Executive Departments, through which the President conducts the affairs of the nation, are recognized, although not directly established by the Constitution. They have been created and their duties defined by acts of Congress.

The Cabinet.—The Heads of Departments, as they are termed in the Constitution, form the "official family" of the President, and as such are called the *Cabinet*. They are appointed by the President, with the consent of the Senate, and can be removed by him at his discretion.

1. THE CABINET.

Origin.—The Cabinet is not recognized by the Constitution. Although the advisability of such a council was discussed in the Constitutional Convention, it was not established because of a fear that it would lessen the responsibility of the chief magistrate to the people. But it was provided that the President

may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, . . . (Art. II., Sec. 2.)

Early in our history there was introduced the custom, which still continues, of having these officers meet with the President to consult upon important matters, so that the Cabinet has become a recognized part of our system of national government.

Meetings.—The Cabinet usually meets twice a week, but may be convened at any time. At these meetings the policy of the Government is discussed, but the President is not bound by the opinions expressed, and so his responsibility to the people for any executive act is in no way lessened.

Cabinet in England and the United States.—The word “Cabinet” is an adoption from the English term applied to the body of public ministers who enforce the laws. In Great Britain it possesses the executive authority ; its members sit in Parliament and are responsible to that body and to the sovereign for their acts. In the United States the Cabinet is merely an advisory body to the President, and neither the President nor any cabinet officer can, under the Constitution (Art. I., Sec. 6, Cl. 2), be a member of the Senate or House of Representatives.

2. THE DEPARTMENTS.

When Created.—The Executive Departments of the government were originally four in number—the Department of State, the Treasury Department, the War Department and the Department of Justice. To these were added in 1798 the Navy Department, in 1829 the Post

Office Department, in 1849 the Department of the Interior, in 1889 the Department of Agriculture, and in 1903 the Department of Commerce and Labor.

Official Heads. — The heads of these nine Departments are respectively the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney-General of the United States, the Secretary of the Navy, the Postmaster-General, the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce and Labor. These officers, appointed by the President, form the Cabinet and constitute the President's official advisers.

(a) Department of State.

Duties.—This Department has charge of the correspondence with agents of the United States in foreign countries, of negotiations with the diplomatic agents of other governments and of the general conduct of foreign affairs.

Duties of Secretary of State.—The Secretary of State, besides directing the affairs of his Department, is the custodian of the great seal of the United States. He is charged with the promulgation of the laws ; with giving notice of proposed constitutional amendments and with their promulgation when adopted ; with notifying the state authorities of vacancies in the offices of President or Vice-President ; and with issuing proclamations and other presidential communications of a public character.

Passports.—The Secretary of State can grant passports to citizens of the United States who go abroad intending to return. A *passport* is a certificate that the person described in it is a citizen of the United States, and is used

for the purpose of identification and to obtain the protection and rights to which he is entitled.

Diplomatic and Consular Service.—The agents of the United States in foreign countries are of two classes: diplomatic and consular.

Diplomatic Service.—A *Diplomatic Agent* is an official accredited—that is, sent with credentials of his character and rank—to a foreign sovereign or government, whose duty is to conduct the official intercourse between the United States and that sovereign or government, which is done through the Minister of Foreign Affairs of the other country. The conduct of such intercourse is termed *diplomacy*. There are four grades in the Diplomatic Service, which rank in the order given: (1) Ambassadors; (2) Ministers Plenipotentiary; (3) Ministers Resident; and (4) *Chargés d’Affaires*.

An *Ambassador* is supposed to be the representative of the person of the sovereign, and as such entitled to special privileges, among which was claimed the right to deal directly with the sovereign to whom he is accredited. This important privilege is, however, denied by later authorities, and ambassadors differ from other diplomatic representatives only in rank, which affects their social rather than their official standing.

A *Minister Plenipotentiary*, or, to give him his full title, “Envoy Extraordinary and Minister Plenipotentiary,” represents the affairs, not the person, of the sovereign.* The word “plenipotentiary” never possesses its full meaning in this connection.

* There being no one individual in the United States who possesses the sovereignty, representation of the sovereign’s person is in a measure fic-

A *Minister Resident* differs from a Minister Plenipotentiary only in grade.

A *Chargé d'Affaires* represents the Secretary of State, and is accredited to the minister of foreign affairs of the government to which he is sent. A *Chargé d'Affaires ad interim* is an official who, during the absence of an ambassador or minister, performs his duties. He is usually the first secretary of the embassy or legation.

Diplomatic Commissioners.—Besides these diplomatic agents, a commissioner, with the rank of one of the first two grades, is sometimes appointed for a special purpose, such as the negotiation of a treaty or the settlement of claims.

Diplomatic Privileges.—Diplomatic agents and their attachés possess certain exceptional privileges which are universally recognized. For example, they are exempt from criminal prosecutions and actions at law, and their persons and property are protected from seizure or injury.

Duties of Diplomatic Agents.—The principal duties of diplomatic agents are the negotiation of treaties, the settlement of claims and disputes between the two governments, the protection of citizens of the United States, the issuance of passports and the reporting to the Secretary of State the political events which occur in the country where they reside.

PERSONA NON GRATA.—In case a diplomatic representative is *persona non grata*—that is, one personally objectionable to the titious and difficult of application. The distinction between ambassadors and ministers is based upon monarchical institutions, but was adopted by the United States in 1893 for the purpose of gaining for our diplomatic representatives of the first grade the consideration which only ambassadors enjoy in foreign courts.

government to which he is accredited—the minister of foreign affairs notifies the Secretary of State through the regular diplomatic channels, the minister is recalled and another is appointed who is *persona grata*. In the notice to the Secretary of State it is customary to give the grounds of objection, but it is not necessary, as the mere fact that he is objectionable to the foreign government is sufficient.

Severance of Diplomatic Relations.—When the relations between the United States and another country become strained, and war is imminent, the representative of the other nation at Washington demands or is given his passports, or safe conduct, and he is expected to leave this country at once. The United States representative to the other government is also given or demands his passports, and leaves the country. Thus diplomatic relations are broken off. Whatever official intercourse occurs between the two governments after their diplomatic agents have been withdrawn is carried on through the ministers of other countries.

Consular Service.—The Consular Service is divided into four grades: (1) Consuls-General; (2) Consuls; (3) Commercial Agents; and (4) Consular Agents.

A member of the Consular Service is an agent of the United States in a foreign country, to protect its citizens and commercial interests. Before he can begin his services his commission is forwarded to the diplomatic representative of the United States, who applies to the minister of foreign affairs of the country to which the officer is commissioned for permission for him to perform his consular duties. This permission is called an *exequatur*, and whenever it is revoked the consular officer must cease to act.

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A *Consul-General* is sent to a country with which the United States has large commercial interests. He has supervision of the entire consular service in such country; and in certain countries (such as Great Britain, France, Germany, Italy, etc.) all consular officers send their reports to the Department of State through their Consuls-General.

A *Consul* has charge of the commercial relations between the United States and a certain district, in which he is authorized to perform his duties.

Consuls-General and Consuls are appointed by the President, with the advice and consent of the Senate.

A *Commercial Agent* differs from a Consul chiefly in rank. He is appointed by the President alone. Such an officer is usually not recognized by the country to which he is sent; but it is customary for the United States to request an *exequatur* to be issued to its Commercial Agents.

A *Consular Agent* is an official appointed by the President to act in part of a district in which the Consul is unable to perform his duties alone. A Consular Agent is under the supervision of, and reports to, the Consul of the district. Besides these regular grades there are vice-consular officers (such as Vice-Consuls-General, Vice-Consuls, etc.), who perform the duties of their superiors during the temporary absence of the latter.

Duties of Consular Officers.—The chief duties of Consuls are to report to the Secretary of State the conditions of trade between the United States and their districts and to make suggestions in relation to their improvement; to authenticate papers; to settle disputes between American

sea captains and their crews ; to give aid to shipwrecked or indigent citizens of the United States ; and in the absence of a diplomatic agent (as in colonies such as Canada or Australia) to issue passports.

No Official Privileges.—Consuls possess none of the immunities enjoyed by diplomatic officers. They are subject to the laws of the country where they reside, both criminal and civil. There is generally an exception to this rule in half-civilized and non-Christian countries, where by treaty they are given diplomatic privileges.

(b) Treasury Department.

Duties.—This Department has the management and custody of the finances of the United States, and supervision of the National Banking System.

Collection of Revenues.—It collects the customs duties, and to prevent violations of the tariff laws has a number of vessels, known as “revenue cutters,” whose chief duty is to patrol the coasts and seize smugglers. It also collects the internal revenues and enforces the revenue laws. To prevent their violation, to apprehend counterfeiters and to protect the government funds, it employs a corps of agents and detectives, known as the “Secret Service.”

Coinage.—The Treasury Department has charge of the mints and coins the money of the United States. The Bureau of Engraving and Printing, where the different forms of bills in circulation are made, is under this Department.

Custody of Funds.—It also has the custody of any other

government funds, and disburses money as directed by the laws passed by Congress.

Other Branches.—The Life-saving Service and the supervision of the construction of national buildings are under the control of this Department. The clerical force of the Treasury, which is the largest of any Department, belongs in a great measure to the classified civil service.

Duties of Secretary of the Treasury.—The Secretary of the Treasury has the special duties of making regulations for the enforcement of the customs, internal revenue and immigration laws, of making an annual report to Congress with an estimate of receipts and expenditures for the following year, and of publishing every three months a statement of the receipts and expenditures for the past quarter.

National Banks.—A *bank* is an association for the deposit and loan of money, and to facilitate its transference by drafts and bills of exchange. A *national bank* is one incorporated under the federal laws. National banks are under the supervision of a bureau of the Treasury Department, at the head of which is the Comptroller of the Currency.

ORGANIZATION.—A national bank may be organized by not less than five persons with a minimum capital ranging from \$25,000 to \$200,000, which is determined by the number of inhabitants in the place where it is organized. After organization a bank cannot act until the Comptroller has issued to it a certificate, which must be renewed every twenty years.

DEPOSIT OF BONDS ; BANK NOTES.—A bank, before issuing notes, must deposit with the Treasury United States bonds equal to one fourth of its capital unless that exceeds \$150,000, in which

case the deposit of bonds must be \$50,000. Upon this deposit the Treasury issues to the bank, at its request, National Bank Notes for circulation to any amount less than ninety per cent. of the bonds deposited. On its note-issue a bank pays an annual tax of one per cent.

PROHIBITIONS.—A National Bank is prohibited from making loans upon real estate, from accepting its own stock as security, from loaning to one person an amount exceeding one tenth of its capital and from impairing its capital without replacing the amount within three months after receiving notice from the Comptroller.

GOVERNMENT SUPERVISION.—Five reports a year must be made to the Comptroller at such times as he designates; and an examiner, appointed by him, visits a bank from time to time and reports the state of its affairs. By these means the Comptroller is kept constantly informed of the condition of each bank in the country. When a bank fails, its affairs are placed in the hands of a receiver, appointed by the Comptroller, who converts its assets into money and deposits them in the Treasury, out of which the Comptroller may from time to time declare dividends to the bank's creditors.

LIABILITY OF STOCKHOLDERS.—In case the assets of a bank are not sufficient to pay its debts, each stockholder may be assessed by the Comptroller to an amount not exceeding the face value of the stock which he holds.

ADVANTAGE OF SYSTEM.—The great advantages of the National Bank System are the uniformity of banking throughout the country and the security to depositors by reason of government supervision and the Comptroller's management of the affairs of a bank which has failed.

Legal Tender.—Before leaving the financial branch of the government a brief statement should be made concerning "legal tender" in the United States. *Legal tender* is the money or currency which by law a person can require a creditor to accept in settlement of a debt. In the United States gold coins are legal tender to any

amount ; silver dollars and Treasury notes of the Act of 1890 are full legal tender unless limited by contract ; greenbacks (United States notes), except as interest on the national debt ; national bank notes in payments to any national bank or for customs duties and debts of the Government except for interest on national bonds ; silver coins of a lower denomination than a dollar are full legal tender to the amount of ten dollars ; and nickel and copper coins, to the amount of twenty-five cents.

COINS.—Any person can send to one of the mints any amount of gold bullion, and, upon the payment of the cost of minting, called “seigniorage,” have it coined into money. This privilege, being unlimited, is called “free coinage.” The Treasury purchases the silver, nickel and copper which are made into coins, but only such amounts can be bought and coined as Congress authorizes. There is no free coinage of these metals.

CIRCULATING NOTES.—A *Treasury Note*, issued under the Act of 1890, is one secured by silver dollars stored in the Treasury. A *Greenback*, or *United States Note*, is merely a promise to pay the amount to the bearer. A *National Bank Note* is a promise by the bank which issues it to pay the bearer the amount of it, and is secured, as has been said, by a deposit of government bonds. All varieties of circulating notes are engraved by the Treasury and are redeemed or canceled by that Department.

(c) *The War Department.*

Duties.—This Department has charge of the construction and maintenance of the military stations and of the organization and maintenance of the military forces of the United States. The Department has also the direction of the Military Academy at West Point, N. Y. Prior to the establishment of the Department of the

Interior, Indian Affairs were for a time conducted by the War Department.

(d) The Department of Justice.

Duties.—This Department has the general supervision of actions and proceedings brought by or against the United States in the federal courts, and also has the control of the District Attorneys and Marshals of the United States.

Duties of Attorney-General.—The Attorney-General is required to give a legal opinion upon any question submitted to him by the President or by the Heads of the Departments, and to argue suits in the Supreme Court and Court of Claims in which the United States is interested. He is required to examine and approve the title to land before it can be purchased by the United States ; and he also examines and makes recommendations concerning applications for pardons and reprieves before they are acted upon by the President.

(e) The Navy Department.

Duties.—This Department is charged with the construction, equipment and maintenance of the navy and naval stations, and with the organization and maintenance of the naval forces of the United States. The Naval Academy at Annapolis, Md., is under this Department.

(f) The Post-Office Department.

Duties.—This Department controls the foreign and domestic postal service of the United States. Its em-

ployees, excepting postmasters, are generally subject to the civil service laws.

Powers of Postmaster-General.—The Postmaster-General is empowered by law to institute and discontinue post-offices, and, with the consent of the President, and without the consent of the Senate, to negotiate postal treaties with foreign nations.

(g) *The Department of the Interior.*

Duties.—This Department has charge of the public lands, including mines, the care of Indian tribes in the United States, of education, and of the railroads in which the United States has an interest.

Patents; Pensions.—The issuing of patents belongs to this Department, as does the granting of pensions. A *pension* is a stated allowance granted to soldiers and sailors disabled by wounds incurred or disease contracted in the service of their country, and also, under certain conditions, to their widows and children.

(h) *The Department of Agriculture.*

Duties.—This Department is devoted to the securing, preservation and publication of information relative to all branches of agriculture, the collection and distribution of seeds among agriculturists, the inspection of cattle and meats exported, and the prevention of diseases among live stock.

Weather Bureau.—This Department has charge of the Weather Bureau, which issues daily weather maps and forecasts for the succeeding twenty-four hours. The work of the Weather Bureau is particularly valuable along the

coasts and on the Great Lakes in giving timely warning of approaching storms, and also in making a study of the climate of the United States.

(i) *The Department of Commerce and Labor.*

Duties. — It is the duty of this Department to promote trade, transportation and fisheries, and the laboring and manufacturing interests of the country. To this end, it has charge of lighthouses, the coast survey, immigration and foreign commerce. It also embraces the *Fish* and *Labor Commissions* and takes the national census every ten years.

Bureaus. — The *Bureau of Manufacturing* is charged with the development of manufacturing industries and markets for the same at home and abroad. The *Bureau of Corporations* is empowered to investigate the management of corporations doing business in two or more States and report the same to the President for the purpose of recommending legislation.

(j) *Commissions, Bureaus, Etc.*

Besides these Departments, there belong to the Executive Branch of the government the *Civil Service Commission*, already spoken of; the *Interstate Commerce Commission*, which has supervision of railroads which pass from one State into another; the *Government Printing Office*, which publishes the "Congressional Record," presidential messages, reports and all other official documents; the *Librarian of Congress*, who is in charge of the Library of Congress and of the issuance of Copyrights; and other bureaus in charge of the national museums and scientific collections.

4. DUTIES OF THE EXECUTIVE.

Implied Duties of President.—The duties of the President are chiefly those implied in the powers vested in him, and for the proper exercise of which he is responsible.

Annual and Other Messages.—There are certain of his duties, however, which are specified in the Constitution. It is provided that:

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; . . . (Art. II., Sec. 3.)

Custom has established that at the opening of each session of Congress the President shall send to the two houses an *Annual Message* containing a review of the foreign and domestic affairs of the United States during the preceding year, and outlining what he deems the best policy as to existing conditions. The President may also submit a special message to Congress at any time when a question of importance arises which demands legislative action, with or without expressing his opinion as to the course to be pursued.

Mode of Delivering Messages.—Presidents Washington and Adams delivered their annual communications orally, but President Jefferson inaugurated the custom, since followed, of sending them in writing, to be read before the two houses.*

* Presidents Washington and Adams, at the opening of each regular session of Congress, complied with the constitutional requirement by

Reception of Foreign Representatives.—The President is also directed by the Constitution to “receive ambassadors and other public ministers” (*Id.*). A diplomatic representative delivers his credentials to the Secretary of State, and, if they are satisfactory, he is officially presented by the latter officer to the President and becomes the recognized agent of his government. In case two governments exist in the same country, it rests with the President to determine which of their agents represents the sovereignty.

Sole Responsibility of President.—The President “shall take care that the laws be faithfully executed” (*Id.*). This provision emphasizes his sole responsibility for the proper administration of national affairs, and prevents any question being raised as to the division of such responsibility.

personally delivering an “Annual Address,” or “Speech,” to the two houses of Congress, which met jointly for that purpose; and to this address each house replied through its presiding officer. All other communications of the Executive were by “Special Message,” a copy of which was sent by messenger to each house. President Jefferson, at the opening of the first session after his inauguration, sent a memorandum to Congress stating that he deemed it advisable not to make the annual communication “by personal address,” but to adopt the method “by message” which had been employed by his predecessors on all special occasions.

THE EXECUTIVE BRANCH.

THE PRESIDENT.

Powers.

Military.

- | | | |
|---|---------------------------------|------------|
| { | Command of | { Army. |
| | | { Navy. |
| | | { Militia. |
| | Conduct of military operations. | |
| { | Begin hostilities. | |
| | Institute a blockade. | |

Civil.

- | | | |
|----------------------------|-----------------------------|--|
| { | Veto. | |
| | Appoint | { Ambassadors. |
| | | { Public Ministers. |
| | | { Consuls. |
| | | { Judges. |
| | | { Other officers of the United States. |
| | Civil Service | { Classified. |
| | | { Unclassified. |
| | Pardon | { Pardon. |
| | | { Amnesty. |
| { Reprieve. | | |
| { Commutation of sentence. | | |
| { | Conduct foreign relations | { Convene Congress for these |
| | Administer internal affairs | |

Duties.

- | | | | | |
|---|----------------------------------|------------------|-------------------------|----------|
| { | Give information | { to Congress by | { Annual }
Special } | Message. |
| | Recommend measures | | | |
| | Receive foreign representatives. | | | |
| | Execute the laws. | | | |

THE EXECUTIVE DEPARTMENTS.

Department of State.

<i>Secretary of State</i>	{	Custody of the Great Seal.				
		Promulgate laws.				
		Give notice of	{	Constitutional	Amend-	
		Promulgate		ments.		
Correspondence with and direction of	{	Issue	{	Proclamations.	Presidential Communica- [tions.	
				Passports.		
				Diplomatic service		Ambassadors.
		Ministers Resident.				
	Chargés d’Affaires.					
	{	Consular service	{	Consuls-General.	Commercial Agents.	
				Consuls.		Consular Agents.
	Negotiations with foreign diplomatic agents.					

Treasury Department.

<i>Secretary of the Treasury</i>	{	Make	{	Regulations	{ Customs. [nue.
					{ Internal reve-
					{ Immigration.
				Annual estimate.	
Collection of	{	Publish quarterly statement.			
		Customs duties.			
Coinage	{	Internal revenue.			
		Coins	{	Gold.	
				Silver.	
				Nickel.	
				Copper.	
	{	Circulating notes	{	Treasury notes.	
				U. S. notes (Greenbacks)	
				National bank notes.	
Supervision of national banks.					
Custody and Disbursement of	{	All government funds.			
Direction of	{	Life-saving service.			
		Construction of National Buildings, etc.			

War Department.

{ <i>Secretary of War:</i>		
Construction and	}	of military stations
Maintenance		
Organization and	}	of land forces.
Maintenance		

Department of Justice.

{	<i>The Attorney-General</i>	Advise	{ President.
		Argue U. S. suits	{ Heads of departments.
			{ Supreme Court.
		Examine and	{ Court of Claims.
		Approve	{ Titles to lands purchased by the United States.
{		Examine and	{ as to pardons.
		Recommend	
Supervision of legal actions when United States a party.			
{	Control of	District Attorneys.	
		Marshals.	

Navy Department.

{ <i>Secretary of the Navy:</i>		
Construction,	}	{ Navy.
Equipment and		
Maintenance	}	{ Naval stations.
Organization and		
Maintenance	}	of naval forces.

Post-Office Department.

{	<i>Postmaster-General</i>	Institute and	}	Post-offices.
		Discontinue		
		Negotiate postal treaties.		
{	Control of postal service.	Foreign.	{	
		Domestic.		

Department of the Interior.

{ <i>Secretary of the Interior:</i>		
{	Care of	Public lands
		Indians.
		Education.
		Railroads.
Issuance of patents.		
Granting of pensions.		

Department of Agriculture.

<i>Secretary of Agriculture:</i>		
{	Preservation and Publication	} of agricultural information.
	Collection,	
{	Testing and	} of seeds.
	Distribution	
{	Inspection of exported	{ Cattle.
		{ Meat.
{ Prevention of diseases among live stock.		

Weather Bureau.**Department of Commerce and Labor.**

<i>Secretary of Commerce and Labor :</i>		
Promote	{	Trade.
		Transportation.
		Fisheries.
		Labor and
		Manufacture.
Charge of	{	Lighthouses.
		Coast survey.
		Foreign commerce.
Enforcement of immigration laws.		
Taking and	}	of national census.
Publication		
Bureau of manufacturing.		
Bureau of corporations.		

Civil Service Commission.**Interstate Commerce Commission.****Commissioner of Labor.****Fish Commission.****Government Printing Office.**

Librarian of Congress { Charge of Congressional Library.
 { Issuance of copyrights.

Bureaus in charge of { National Museum.
 { Scientific collections, etc.

CHAPTER IV.

THE JUDICIAL BRANCH.

1. THE FEDERAL JUDICIARY.

The Judicial Power.—The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. (Art. III., Sec. 1.)

The system of courts thus established is generally recognized as chiefly instrumental in giving stability and permanence to the national government.

Judiciary of the Confederacy.—Under the Articles of Confederation there was practically no national judiciary. The Congress was the arbiter in boundary disputes between States and was empowered to establish prize courts ; but the interpretation and application of the laws of the Confederacy rested with the state courts, from whose decisions there was no appeal. As a result, these interpretations were affected by local prejudice or interest.

Necessity of a National Judiciary.—The need of a national judiciary for the application of the national laws in the same way to every citizen of every State, as well as for a check upon the acts of the state governments and the legislative branch of the federal government, was early recognized by the Convention of 1787. The

check upon the national legislature could not be exercised by the state courts, for there would be no uniformity in their decisions. But if there was no such check, it was evident that the constitutional limitations upon legislation would be ineffective, as Congress, in conjunction with the President, would, like the British Parliament, be practically supreme.

Independence of Judiciary.—It was evident also that the tribunal possessed of such powers should be independent of the other branches of the government, both for its maintenance and tenure of office, so that it might act with that freedom and fearlessness which were essential to the proper performance of its duties. Therefore the Constitution provides that :

The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office. (Art. III., Sec. 1.)

Establishment of the Judiciary.—There was thus established a judiciary, national and independent, with power in Congress to provide for inferior courts, from which appeals could be taken to the higher tribunal. The provisions for the judiciary were determined upon in the early sessions of the Convention, and though the greater part of the Constitution underwent numerous modifications, these remained practically unchanged.

The Impeaching Power.—In one particular, however, the national tribunal was deprived of a judicial power originally given to it. That was to try impeachments, for it was apparent that if no check were placed upon the

judges they might become the supreme power in the government by annulling the laws of Congress and removing the executive officers by impeachment. To prevent such a possibility, the Convention lodged the impeaching power in the legislative branch and made the judicial officers themselves subject to removal from office upon impeachment.

The completed Constitution thus established three divisions of the judicial power: first, that given to the Senate, a Court of Impeachment ; second, the Supreme Court of the United States ; and third, such inferior courts as Congress might create.

1. THE COURT OF IMPEACHMENT.

Definition.—*Impeachment*, under the Constitution, is a charge made in writing by the House of Representatives to the Senate against a civil officer of the United States. The charge or charges are termed *Articles of Impeachment*.

Constitutional Provisions.—The provisions in the Constitution relating to impeachment are as follows:

The House of Representatives . . . shall have 'the sole power of impeachment. (Art. I., Sec. 2, Cl. 5.) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present. (Art. I., Sec. 3, Cl. 6.)

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject

to indictment, trial, judgment and punishment, according to law. (Art. I., Sec. 3, Cl. 7.)

The President, Vice President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. (Art. II., Sec. 4.)

The words "civil officers" in the last provision include all the judicial and executive officers of the government excepting those of the army and navy, but it has been held that members of the legislative branch are not of this class.

Origin.—Since the time of Edward III. the English House of Commons has exercised the right to summon any English subject before the House of Lords for trial. Upon this power there was no limitation as to person or punishment, and its abuses prior to the American Revolution induced the Constitutional Convention to limit the jurisdiction and judgment of the Court of Impeachment.

Procedure.—The method of impeachment in the United States is as follows: When a civil officer is charged with having committed an impeachable act, the House of Representatives appoints a committee to investigate the charges. If the report of the committee is against the accused and is sustained by a majority of the House, usually seven Representatives, called "Managers," are elected to impeach the officer before the bar of the Senate and to conduct the trial.

Trial.—The accused is then summoned to appear before the Senate, which resolves itself into a Court of Impeachment. If the officer does not appear, the Senate takes the proof without him; but if he appears and denies the

accusation, a time is fixed for the trial, when it proceeds in much the same way as in an ordinary criminal trial in the federal courts. When deciding a question raised during the trial or when considering the verdict, the Senate does so in secret session, after which its decisions are publicly announced.

Conviction.—No officer can be convicted in case of impeachment unless two-thirds of the Senators present concur, but it would seem that questions raised during the trial can be determined by the majority. In the trial of a person for treason the Constitution provides that:

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. (Art. III., Sec. 3, Cl. 1.)

Trial of President.—In case the President is impeached, it is manifest that the Vice-President is interested in the trial; for, if the accused is convicted and deprived of his office, the Vice-President would succeed him. In view of this fact, the provision was inserted in the Constitution that in such case the Chief Justice shall preside at the trial.

Grounds for Impeachment.—The grounds for impeachment are stated in the Constitution to be “treason, bribery, or other high crimes and misdemeanors.” *Treason* against the United States is defined by the Constitution to “consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort” (Art. III., Sec. 3, Cl. 1). *Bribery* is the giving, tendering or receiving of any gift as a reward for performing a legal duty. *High crimes and misdemeanors* cover all

classes of crimes, but whether a crime committed by an officer not in his official capacity is an impeachable offense is a question as yet undecided.

2. THE SUPREME COURT.

Composition.—This tribunal is composed of judges appointed by the President with the consent of the Senate. There is no provision as to number, although from Article II., Section 2, Clause 2, it would appear that the framers of the Constitution contemplated more than one judge, and a *Chief* Justice is mentioned in Article I., Section 3, Clause 6 ; nor is it provided where or when the court shall hold its sessions. These details have been supplied by laws enacted by Congress. By the Judicial Act of 1789 the number of Justices was made six, which has since been increased to nine.

Sessions.—The Court sits at Washington, and holds one session annually, commencing on the second Monday in October.

3. INFERIOR COURTS.

Divisions.—In accordance with the provisions of the Constitution (Art. III., Sec. 1), Inferior Courts have been established by acts of Congress. They will be considered in the following order: (*a*) District Courts ; (*b*) Circuit Courts ; (*c*) Circuit Courts of Appeal ; and (*d*) the Court of Claims. The judges are appointed in the same way and for the same term as the Justices of the Supreme Court, and their compensation is guaranteed by the same constitutional provision.

(a) District Courts.

Districts and Judges.—Congress has set apart each State as a judicial district, except in case of the more populous States, which are divided into two or more districts. At present (1911) there are ninety-two judicial districts. There is a resident Judge in each district ; and the court is held by a District Judge.

(b) Circuit Courts.

Circuits and Judges.—The United States is also divided into nine judicial circuits. To each Circuit the Supreme Court allots one of its Justices, who must attend at least one term of such Court in every two years. For each circuit there are also appointed two or more Circuit Judges. Prior to the establishment of the Circuit Courts of Appeal, there was but one Judge appointed for each Circuit.

Terms.—A Circuit Court sits twice a year in each district within the circuit. It may be held by the Justice of the Supreme Court, a Circuit Judge, or a District Judge sitting alone, or by the Justice and a Circuit Judge together, or by either of them sitting with the District Judge.

(c) Circuit Courts of Appeal.

Number and Purpose.—They are nine in number and were created for the purpose of relieving the Supreme Court of certain classes of appeals.

Composition.—A Circuit Court of Appeal consists of three Judges, two of whom form a quorum. It is held by the Justice of the Supreme Court allotted to that cir-

cuit and two Circuit Judges, but a District Judge is also competent to act. No judge, however, can hear a case in the Circuit Court of Appeal at the trial of which he presided in the District or Circuit Court.

(d) *The Court of Claims.*

Composition and Session.—This Court consists of five Judges, appointed in the same manner as other judicial officers, one of whom is Chief Justice of the Court. It sits in Washington and holds one session annually.

4. COURT OFFICERS.

United States Commissioners.—*United States Commissioners* are appointed in each circuit by the Circuit Courts, to assist the District and Circuit Judges. Their chief duties are to administer oaths, to examine and commit offenders against the federal laws, and to examine witnesses in certain cases.

District Attorneys.—A *District Attorney* is appointed by the President for each judicial district to conduct criminal cases and civil actions, to which the United States is a party, in the inferior courts except the Court of Claims.

Clerks.—A *Clerk* is appointed by the various courts, who has charge of the archives, the seal and the moneys paid into court.

Marshals.—A *Marshal* is appointed by the President in each district, who executes the commands of the court, makes arrests for the violation of the federal laws and is given power to appoint deputies to aid him in the performance of his duties.

2. THE JURISDICTION OF THE FEDERAL COURTS.

JURISDICTION is the authority to administer justice under the laws. It may be limited as to the matter in controversy, or the persons involved. It is also either *original* or *appellate*.

ORIGINAL JURISDICTION is the authority of a court to try a cause which has not been submitted to any other court, to receive evidence of the facts, to apply the laws and to render judgment.

APPELLATE JURISDICTION is the authority of a court to review a cause, tried and determined in another court, without taking further evidence, and to reverse, modify or approve the judgment rendered.

CONCURRENT JURISDICTION is that which a court possesses in common with another court or courts.

THE COMMON LAW consists of those rules of justice, not enacted by the legislative power, which courts in England and the United States have declared to be the right principles for the regulation of society.

As the rules of the Common Law became definite and fixed, another branch of jurisprudence was introduced, termed *Equity*, which arose from the same source, natural justice, and was intended to supplement or correct the settled rules of the Common Law, when their application would work hardship or injustice.

The Common Law and Equity are termed the *Unwritten Law*. *Statute Law* comprises those laws which have been enacted by the legislative power. These are called the *Written Law*, and supersede the Common Law and Equity whenever their rules conflict.

This system of jurisprudence, introduced in America with the earliest English settlements, was the only one with which the Colonists were familiar at the time of the Revolution. It was, therefore, recognized as a proper basis for judicial proceedings, and is to-day the system employed in the federal courts and in all the States except Louisiana, which derives its jurisprudence from France, and except in relation to certain questions of land titles arising in the States and Territories included in the lands ceded to the United States by Mexico.

ADMIRALTY LAW is that which relates to maritime cases, both

civil and criminal, and in the United States pertains to the high seas, the great lakes and navigable rivers.

A CRIMINAL ACTION is a prosecution in a court of law begun by the Government against an individual, which has for its object the punishment of a crime.

A CIVIL ACTION is one begun by the Government or a person against another person, to collect debts, enforce contracts, determine rights or recover damages for injuries.

A PERSON, in a legal sense, includes a single individual, a partnership, association or corporation.

1. CONSTITUTIONAL LIMITATIONS.

As to Subject.—As to the *subject in controversy*, the jurisdiction of the federal courts is limited by the Constitution

to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority ; . . . [and] to all cases of admiralty and maritime jurisdiction ; . . . (Art. III., Sec. 2, Cl. 1.)

As to Parties.—As to *parties*, the federal jurisdiction is limited by the Constitution

to all cases affecting ambassadors, other public ministers, and consuls ; . . . to controversies to which the United States shall be a party ; to controversies between two or more States ; between a State and the citizens of another State ; between citizens of different States ; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects. (*Id.*)

The above provisions were modified in 1798 by Amendment XI., which provides:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prose-

cuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

As to Penalties.—In criminal cases the Constitution provides that excessive fines shall not be imposed nor cruel and unusual punishments be inflicted (Amendment VIII.; see page 185). In convictions for treason the punishment is limited by the provision that

no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted. (Art. III., Sec. 3, Cl. 2.)

Congress, under the power granted to it by this last section, has fixed the punishment as death, or, at the discretion of the court, imprisonment for not less than five years, a fine of not less than ten thousand dollars, and incapacity to hold any office under the United States.

2. ORIGINAL AND APPELLATE JURISDICTION OF THE SUPREME COURT.

Original.—The original jurisdiction of the Supreme Court is confined to two classes of cases, for the Constitution provides:

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. (Art. III., Sec. 2, Cl. 2.)

Appellate.—The appellate jurisdiction of the Court is much more extensive, but is subject to congressional regulations, which pertain chiefly to limiting the classes of cases which can be appealed. The provision of the Constitution is :

In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make. (*Id.*)

3. JURISDICTION OF THE INFERIOR COURTS.

Power of Congress.—As these tribunals are created by Congress, it follows that their jurisdiction must be established by legislative acts, but it cannot exceed the constitutional limitations.

Congress can, therefore, change or modify the jurisdiction of the different courts at any time, and this has been done in certain instances.

(a) *Courts of Original Jurisdiction.*

The Courts.—The courts of original jurisdiction, only, are the District Courts, the Circuit Courts and the Court of Claims.

District and Circuit Courts.—The District and Circuit Courts have concurrent jurisdiction of some civil actions and certain criminal cases, but all of the latter in which the sentence of death may be imposed must be brought in a Circuit Court. Admiralty cases and, generally, bankruptcy matters, must come before the District Courts, while cases arising under the revenue, patent and copyright laws must be brought in the Circuit Courts.

Juries.—The trial of all crimes, except in cases of impeachment, shall be by jury ; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed. (Art. III., Sec. 2, Cl. 3.) (See Amendments VI. and VII., pages 185 and 187)

Court of Claims.—The Court of Claims has sole and original jurisdiction of claims against the United States Government generally, and in all cases which involve less than three thousand dollars its decisions are final.

(b) Courts of Appellate Jurisdiction.

Circuit Courts of Appeal.—Except in certain cases, in which Congress has provided for appeals directly to the Supreme Court, a party dissatisfied with the decision of a District or Circuit Court may appeal to a Circuit Court of Appeal; and in some cases, such as those relating to the revenue, patent or copyright laws, or those involving less than five thousand dollars the decision of the Circuit Court of Appeal is final.

Supreme Court.—Except when the decision of a Circuit Court of Appeal is final, a party may appeal from its decision to the Supreme Court; and in cases involving such questions as the interpretation of the Constitution or a treaty, the conviction for a crime punishable with death or the jurisdiction of a court, a party can appeal *directly* to the Supreme Court without first having the case reviewed by a Circuit Court of Appeal. It has also been provided by Congress that when a case before the courts of a State involves questions relating to the federal Constitution, laws or treaties, a party can appeal from the highest state court to the Supreme Court.

JUDICIAL BRANCH.

COURT OF IMPEACHMENT	{ House of Representatives, to impeach } for { Treason, Bribery, Senate, to try impeachments } Other High Crimes and Misdemeanors.	
	{ as to Parties, Subject and Penalties. }	
SUPREME COURT (A Chief Justice and Eight Associate Justices)	JURISDICTION	Original
		Affecting
INFERIOR COURTS	JURISDICTION	In Cases
		When a State is a party.
Of Original Jurisdiction	JURISDICTION	Directly from Circuit and District Courts
		From Circuit Courts of Appeal and the Court of Claims
Of Appellate Jurisdiction	JURISDICTION	Exclusive
		Concurrent
Of Appellate Jurisdiction	JURISDICTION	Exclusive
		Claims

Ambassadors, Consuls.
Other public ministers.

In Cases involving
Jurisdiction of the Court.
Interpretation of Federal Constitution or a treaty.
Application of Federal Constitution to a State law.
Conviction of capital crime.

In all cases in which the decisions are not final.

Admiralty and Maritime Cases.
Cases for Penalties and Forfeitures.
Bankruptcy Proceedings (generally), etc.
Crimes, not punished by death.

Civil Actions for or against U. S. or an officer.
Infringement of personal rights.
Bankruptcy (certain proceedings), etc.
Crimes, punished by death.

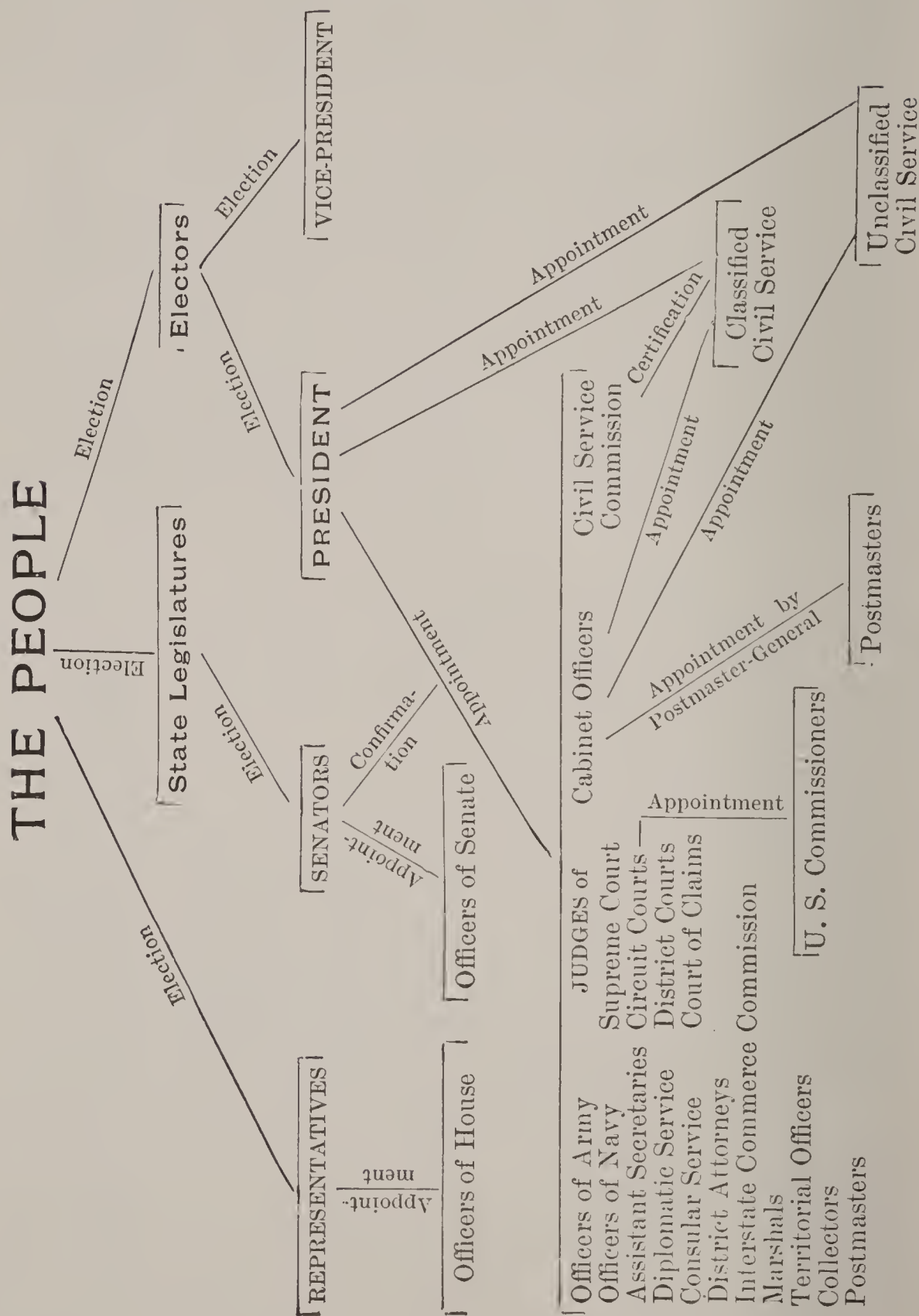
Cases under the Revenue, Patent and Copyright Laws.
Civil Actions, not for or against U. S. or an officer, etc.
Founded on a Law of Congress:
Regulation of any Executive Department.
Contract with the Government.

Referred by either House of Congress.
Of Disbursing Officers to be relieved from disability.
Cases not appealable directly to the Supreme Court.
Involving U. S. or State citizenship.

Judgments are final in all cases
Arising under } Patents.
Crimes not punished by death.
Admiralty cases.
Civil suits less than \$5,000.

Circuit Courts of Appeal
(Justice of Supreme Court, two Circuit Judges and a District Judge, or any two of them)

SOURCE OF AUTHORITY IN THE FEDERAL GOVERNMENT.



OFFICIAL TERMS AND SALARIES

LEGISLATIVE—	SOURCE OF AUTHORITY	TERM OF OFFICE	SALARY
Senators.....	Elected by State Legislatures	6 years	\$7,500
Representatives.....	Elected by People	2 years	"
Territorial Delegates.....	" "	"	"
Speaker of the House.....	Chosen by House	"	12,000
EXECUTIVE—			
<i>(Civil)</i>			
President.....	Elected by Electors	4 years	75,000
Vice-President.....	" "	"	12,000
Cabinet Officers.....	Appointed by Presi- dent and confirmed by Senate	Will of the President	12,000
Solicitor-General.....	"	"	7,500
Assistant Secretaries.....	"	"	4,500-5,000
Ambassadors.....	"	"	17,500
Ministers Plenipotentiary.....	"	"	10,000-12,000
Ministers Resident.....	"	"	5,000-10,000
Consuls-General.....	"	"	3,000-12,000
Consuls.....	"	"	2,000-8,000
Civil Service Commissioners.....	"	"	4,000-4,500
Interstate Commerce Commissioners	"	"	10,000
District Attorneys.....	"	"	Fees †
Marshals.....	"	"	" †
<i>(Army)</i>			
Lieutenant-General.....	"	Life	11,000
Major-Generals.....	"	"	8,000
Brigadier-Generals.....	"	"	6,000
Colonels.....	"	"	4,000
<i>(Navy)</i>			
Admirals.....	"	"	13,500
Rear-Admirals.....	"	"	6,000-8,000
Captains.....	"	"	4,000
JUDICIAL—			
Chief Justice of the United States..	"	"	13,000
Justices of Supreme Court.....	"	"	12,500
Circuit Judges.....	"	"	7,000
District Judges.....	"	"	6,000
Judges of Court of Claims.....	"	"	6,000-6,500

† Besides the fees allowed, these officers are usually paid \$200 annually.

The Salary of the Secretary of State.—The selection of Philander B. Knox, then a Senator from Pennsylvania, for Secretary of State in President Taft's Cabinet caused a temporary reduction in the amount of the salary of that official. The Act increasing the salary of a cabinet officer from \$8,000 to \$12,000 was passed during the term for which Mr. Knox was elected Senator. This fact made him ineligible under Article I, Sec. 6 of the Constitution. To avoid this Congress reduced the salary of the Secretary of State to \$8,000. This amount was again raised to \$12,000 when the term for which Mr. Knox was elected Senator expired, on March 4, 1911.

CHAPTER V.

THE STATES AND TERRITORIES.

National Protection.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence. (Art. IV., Sec. 4.)

Thus is established permanency to republican institutions, not only in the nation as a whole, but in the various States. All the provisions of this section are designed to suppress any effort within or without a State to overthrow its republican government and establish another form in its stead. Even if a State itself should desire a change in its system of government, it would be the duty of the nation to resist such change with all its power, even by force of arms.

Illustrations.—A delicate question as to the power of the national government in this capacity arose at the close of the Civil War in the case of the seceding States. There was one opinion that by the act of secession these States had lost all their sovereign rights and were a portion of the territory of the nation. Another opinion was that they still possessed these rights. As a result they were held under military control until it was assured that the state governments were still republican in form and strong enough to maintain themselves.

The national government is also the natural protector of the States in the case of foreign invasion or domestic troubles. In the latter instance its power has frequently been exercised, particularly in the case of the Dorr Rebellion (1842), and later during the great railroad strike of 1877, when the state authorities were unable to enforce the laws, preserve order or protect property.

Form of State Governments.—As a result of this provision there are, besides the national government, as many governments, independent so far as their local affairs are concerned, as there are States. Each of these is a republic with an executive, called a “Governor,” who resembles the President in his powers and duties, a judicial branch, and a legislative branch consisting of two houses similar in organization to the Senate and House of Representatives, but with more varied powers than those of Congress.

“State Rights.”—The relation of a State to the Union was for many years one of the most important questions which confronted our statesmen. One class maintained that the States could withdraw from the Union at any time they desired. The contrary opinion was that, having surrendered to the federal government certain sovereign rights, they could not reassume them at their own will. For years this discussion engaged the ablest minds of the country, and at times nearly led to open conflict. The act of the State of South Carolina in resisting the collection of duties during the administration of President Jackson was such an instance. At length this difference of opinion came to be marked sectionally, civil war followed, and the question of secession was settled

forever. The principle determined by the war is stated by Chief Justice Waite as follows:

All the rights of the States as independent nations were surrendered to the United States. The States are not nations, either as between themselves or towards foreign nations. They are sovereign within their spheres, but their sovereignty stops short of nationality.

State Comity.—For the sake of uniformity and the promotion of justice between the several States, it was provided that :

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof. (Art. IV., Sec. 1.)

This provision does not extend the power of a State beyond its borders, but is intended to make valid in all parts of the Union the acts of a State in the exercise of its lawful powers. Thus, judgments of the courts of one State cannot be questioned in any other, and records of the title of property are conclusive in every State. If this were not so, and if questions once determined could be reopened to litigation in other States, the greatest confusion and injustice would result from the difficulty of presenting evidence to the courts.

Rights of Citizens.—The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. (Art. IV., Sec. 2, Cl. 1.)

This has been already considered. (See page 98.) It was not, however, intended that a person under obliga-

tions to a State could free himself by removing to another State. For—

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. (Art. IV., Sec. 2, Cl. 2.)

This demand and surrender are called “Extradition,” and Congress has provided rules for its exercise. Its value is seen in the means it affords of bringing criminals to justice. If there were not such a provision, and if it were possible for a man by fleeing from the State where the crime was committed to escape the penalties attached, crimes would increase and every State would become an asylum for rogues and criminals from other States.

Fugitive Slaves.—No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due. (Art. IV., Sec. 2, Cl. 3.)

When it was adopted, this was an important provision. It was demanded by the delegates of the “slave” States as a protection to their property. At that time Massachusetts had prohibited slavery within its borders, and it was disappearing in other Northern States. It was seen that without the existence of the relation of master and servant there would be no means of compelling the return of a runaway slave who had escaped to a “free” State. The enforcement of this provision during the slavery agitation met with great opposition in some places, and was often evaded; and its “injustice” was one of the most

powerful arguments used by the anti-slavery agitators. The Civil War and the abolition of slavery rendered the section practically obsolete, for although it included apprentices and others bound to service, it is now of little effect.

Federal Territory.—The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State. (Art. IV., Sec. 3, Cl. 2.)

At the time of the adoption of the Constitution the vast territory lying between the States and the Mississippi River had, with the exception of a portion belonging to Georgia and North Carolina, been ceded to the general government, and very properly power was given to Congress to make rules respecting this territory, with a proviso protecting the rights of Georgia and North Carolina. These States subsequently relinquished their claims to this land, and the proviso is now of no effect.

Acquisition of Territory.—From time to time since the adoption of the Constitution large tracts have been added to the national domain. In 1803 we acquired by purchase from France the territory then known as Louisiana. In 1819 Florida was ceded to us by Spain. Texas joined of its own will in 1845, and the Mexican War (1848) and Purchase (1853) added the Southwestern territory. Alaska was purchased in 1867 from Russia, while more recently the annexation of Hawaii (1898) and the cessions following the war with Spain (1898) have further increased our possessions. The Constitution is silent upon the power

to acquire new territory, but on the theory that as a sovereign power the nation possesses all the rights of sovereignty, among which is the right to acquire territory, the exercise of this power by the Government has been generally acquiesced in. This is particularly true when such acquisition has been made by purchase or the consent of the people of the territory annexed, and while there has been question as to the right to obtain lands by conquest, the prevailing opinion has been favorable to the existence of such right. This sentiment is stated very clearly by Pomeroy in his "Constitutional Law."

Congress may declare war, and the President, as Commander-in-chief, may wage war. One of the most common results of war is conquest, and unless the wars of this country are to be carried on differently from those of other nations, and unless we are to be deprived of the advantages of success, the possibility of conquest must be considered as included within the capacity to declare and wage war. The President, with the advice and consent of two thirds of the Senate, may make treaties. No kinds of treaties are specified, no limitations are placed; the language is as broad as possible; indeed, these international compacts are expressly declared to be the supreme law of the land. No species of treaty is more common than that of cession; and unless we would interpolate a restriction which the language of the Constitution does not require, and thereby place the United States in a condition of inferiority to all other countries, we must admit that territory may be acquired by treaty.

And the Supreme Court of the United States, through Chief Justice Marshall, has said:

The Constitution confers absolutely on the government the powers of making war and of making treaties. Consequently that government possesses the power of acquiring territory either by conquest or treaty.

Congressional Power over Territory.—Over territory so acquired Congress has, for a time, exercised exclusive control. In order to secure settlers and build up States, it has enacted general laws for the sale of lands and the making of grants and loans, and has established a system for the survey of vast tracts and the regulation of titles. But the disposition of public lands is only a small part of this power of Congress. It can enact local laws for the Territories, regulating the ordinary intercourse of individuals, the procedure of courts, the chartering of railroads, and, in a word, can perform all other legislative acts which can be done by the legislature of a State.

Territorial Government.—Congress has not, however, continued this local control. From time to time various sections have been organized into *Territories*, over which local governments have been established. The system varies in certain details, but in the main it is the same in all. The government is republican, and forms a fitting school for subsequent statehood.

Territorial Officers.—The executive officer is a Governor appointed by the President, with the consent of the Senate, for a term of four years. He must reside in the Territory and is Commander-in-chief of the territorial militia. He may grant pardons and reprieves and remit fines, but his action in these matters is subject to reversal by the President. He has also a limited veto power. A Secretary is appointed in the same manner and for the same term as the Governor, who, besides being the custodian of all territorial papers, and the recorder of the laws and proceedings of the legislature, performs the duties of Governor during a vacancy in that office.

There are also a Treasurer, a Chief Justice and Associate Justices, District Attorney, Marshal, and Superintendent of Education, all appointed by the President and confirmed by the Senate.

Territorial Legislature.—The legislative branch consists of two houses, the members of which are elected by districts every two years by popular vote. The legislative power extends to “all rightful subjects of legislation, not inconsistent with the Constitution and laws of the United States. But no laws can be passed interfering with the disposal of the soil. No tax shall be imposed upon property of the United States. Nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.” But all acts, besides being subject to the veto of the Governor, may be annulled by an Act of Congress.

Territorial Judiciary.—The judicial branch consists of a Chief Justice and at least two Associate Justices of the Supreme Court of the Territory, appointed by the President, and Justices of the Peace elected by the people. Each territory is divided into as many Judicial Districts as there are Supreme Court Justices, and the Supreme Court has both original and appellate jurisdiction. Appeals therefrom are taken to the Supreme Court of the United States.

Territorial Citizenship.—The Territories have no part in the election of President, nor have they Senators or Representatives, though each is entitled to one Delegate to the House of Representatives. Of the position of a citizen of an organized Territory, Bryce in his “American Commonwealth” says:

What may be called his private or passive citizenship is complete. He has all the immunities and benefits which an American citizen enjoys. But the public or active side is wanting, so far as the National Government is concerned, although complete for local purposes.

The District of Columbia.—The government of the District of Columbia differs to such an extent from that of the Territories as to require special mention. Congress has exclusive control of this District (Art. I., Sec. 8, Cl. 17). All laws are made by Congress and enforced by a Commission consisting of an officer of the Corps of Engineers of the Army of a higher rank than captain, and two civilians, citizens of the United States and residents of the District, appointed by the President with the consent of the Senate, for a term of three years. The Commission is authorized to make police and other municipal regulations, collect and apply taxes to the support of schools and other public purposes, and exercise all the powers usually vested in the governing body of cities, but the local taxes are fixed by Congress. The Judiciary of the District consist of a Supreme Court with a Chief Justice and six Associate Justices, which has general jurisdiction of law and equity. From this court appeals can be taken to the Court of Appeals of the District, consisting of three Judges, to which court is also taken any appeal from the decision of the Commissioner of Patents. From the Court of Appeals appeals may be taken to the Supreme Court of the United States.

Admission of States.—New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State

be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress. (Art. IV., Sec. 3, Cl. 1.)

How long a Territory shall remain such is a question to be determined by Congress alone, and its action is not affected by the population, wealth or the extent of the Territory. Political interests, as the retention of party power, and national questions, as slavery, have influenced the action of Congress to a large extent. For a long time there was no uniformity as to the population necessary for admission, and great discrimination has been shown from time to time in favor of Territories in which it was supposed the sentiment on great questions was the same as that of the dominant political party in Congress. There is now a rule which provides that no Territory will be admitted as a State until it has a population sufficient to entitle it to a representative in Congress.

Methods of Admission.—States are usually admitted in one of two ways. Either Congress passes an “enabling act,” by which the people are authorized to adopt a constitution in which certain provisions may be required to be inserted, upon performance of which the Territory becomes a State; or, the people of a Territory submit a constitution to Congress, and upon its approval the Territory becomes a State.

Limitation.—The limitation placed upon the power of Congress to form States was designed as a protection to the large States which feared that they might be divided, and the small States, which feared that they might be consolidated into large States, and is another example of the compromises made in the Constitutional Convention.

GOVERNMENTAL FORMS IN STATES AND TERRITORIES.

STATES:

{	Legislative	{ Senate	{	Elected by the people.
		{ Lower House		
{	Executive	{ Governor		
		{ Appellate Courts	{	Elected by the people or Appointed by Governor.
{	Judicial	{ Courts of Original		
		{ Jurisdiction		

TERRITORIES:

Legislative	U. S. Congress	{	Council House of Representatives	{	Elected by the people.		
	Territorial Legislature					Limited by veto of Governor and act of Congress.	
Executive	Governor	{		{	Appointed by President with consent of Senate.		
	Secretary						
	Treasurer						
	District Attorney						
	Marshal						
	Superintendent of Education						
Judicial	Supreme Court	{	Chief Justice Associate Justices	{	Appointed by President with consent of Senate.		
	Justices of the Peace					{	Elected by the people.
TERRITORIES become STATES		{	by Act of Congress with Constitution adopted	{	before after	{	Act of Congress.

CHAPTER VI.

GENERAL PROVISIONS.

National Credit.—Credit gives stability in national as well as in private concerns. A nation can better lose its armies than its credit. In consequence of these truths there was inserted in the Constitution a provision that:

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be valid against the United States under this Constitution, as under the Confederation. (Art. VI., Cl. 1.)

And later, after the accumulation of an enormous debt through the Civil War, an additional pledge was inserted in Amendment XIV. that:

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrections or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

The Supreme Law.—This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in

the Constitution or laws of any State to the contrary notwithstanding. (Art. VI., Cl. 2.)

Every governmental act repugnant to the Constitution is null and void. So also with the federal laws and treaties, of which the Supreme Court of the United States has said:

In every case of conflict, the Act of Congress or treaty is supreme, and the law of the State, though enacted in the exercise of uncontroverted powers, must yield to it.

As between federal laws and treaties, it is the rule that the one last made is the superior.

Oath.—The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to *support this Constitution*; but no religious test shall ever be required as a qualification to any office or public trust under the United States. (Art. VI., Cl. 3.)

Amendments.—The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that *no State, without its consent, shall be deprived of its equal suffrage in the Senate.* (Art. V.)

Ratification.—The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same. (Art. VII.)

CHAPTER VII.

AMENDMENTS.

Bill of Rights.—The most frequent objection to the Constitution, before it was adopted by the States, was the absence of any provision asserting and guaranteeing the inherent rights of the people. The possibility that a strong central government might become as tyrannical as that of George III. aroused grave apprehension, and to quiet this fear Congress, at its first session, proposed twelve amendments and submitted them to the States for ratification. Of these, ten were adopted in 1791. The first eight constitute what is called the “Bill of Rights,” a name adopted from the English Bill of Rights.

Freedom of Religion and Press.—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. (Amendment I.)

The colonization of this country had been largely due to the attempts of the people to find freedom of worship, and this amendment was intended to guarantee its continuance. It does not, however, deprive the Government of its right and duty to recognize the teachings of religion ; nor does it deter the Government from abolishing

polygamy and other immoralities when practiced under the guise of religion. This amendment also guarantees the right to freely and publicly discuss all questions relating to the conduct and policy of the Government, and asserts the right of the people to assemble and petition, the denial of which was enumerated among the grievances set forth in the Declaration of Independence. It does not, however, allow men to injure the reputation of their fellows by slander or libel.

Arms.—A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed. (Amendment II.)

Quartering of Troops.—No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law. (Amendment III.)

Both of these provisions were taken from the English Bill of Rights, and cover grievances enumerated in the Declaration of Independence.

Searches.—The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (Amendment IV.)

This provision is for the protection of the people against such abuses as occurred under the Writs of Assistance. It does not prevent searches and seizures which are necessary for the recovery of stolen property ; but it places the practice under such regulations as to protect all parties in their rights.

Rights of Accused.—No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (Amendment V.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (Amendment VI.)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. (Amendment VIII.)

These three amendments are intended as a protection to persons accused of crime. A *capital crime* is one of such magnitude as to be punishable by death. An *infamous crime* is one denoting a depraved mind and punishable by long imprisonment.

Indictment.—A *grand jury* is a body of men selected by lot at stated periods from among the citizens of a defined district to inquire concerning crimes committed within their districts. In most States it cannot consist of more than twenty-three nor less than sixteen persons. The grand jury usually considers only those cases submitted to it by an officer of the court, and in secret session takes the testimony of witnesses as to the commission of a crime, and decides whether the evidence is

sufficient to warrant an accusation. This decision requires the concurrence of twelve men. If it is deemed proper, an *indictment*—that is, a written accusation charging a person with the commission of the crime—is presented to the court, and the person therein accused of the offense is held for trial. A *presentment* is an informal accusation of a crime made by a grand jury upon its own knowledge in cases not submitted to it by an officer of the court. As a preliminary to a criminal prosecution the latter has fallen into general disuse in this country.

Bail.—*Bail* is the deposit by an accused person of a certain sum of money with the officers of the court, or a bond given by responsible persons to pay a certain sum of money to the Government, if the accused does not obey the orders of the court, such as to appear for trial.

Trial.—The accused is entitled to a speedy and public trial, and can demand that it be by a *jury*, which is a body of men selected by lot from the district within which the crime was committed, and who are sworn to impartially decide the guilt or innocence of the accused. Such a jury is called a *petit jury*. The accused is also entitled to know the charges against him, to hear and examine the witnesses sworn, and the Government must provide him with counsel, if he is unable to do so himself. He cannot be compelled to testify, nor can his refusal to do so be considered an indication of his guilt. Moreover, he can only be tried once for the same offense, unless the jury fails to agree or unless he secures a new trial.

Protection to Property.—Amendment V., besides guaranteeing life and liberty to the individual, granted him protection in his property rights, but the Government is

not deprived thereby of its right to take private property for public purposes whenever necessity demands. This right of the Government is called the *Right of Eminent Domain*, and unless it existed individuals might obstruct and even prevent necessary public acts. Thus the Government may appropriate property for roads, docks and other improvements, but it must pay a fair market value for it, which, unless the owner and the officials can agree, is determined by a jury of impartial men.

Jury Trial in Civil Suits.—In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law. (Amendment VII.)

Powers Reserved.—The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people. (Amendment IX.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Amendment X.)

Eleventh and Twelfth Amendments.—No further amendments were made to the Constitution until 1798, when the Eleventh was adopted. (See page 163.) In 1804 Amendment XII. was added. (See page 123.)

Slavery.—It was not until 1865 that any further amendments were made, when the slavery question was settled by the adoption of Amendment XIII.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have authority to enforce this article by appropriate legislation.

The Freedmen.—The freedmen thus created were made citizens and their rights were defined by Amendment XIV. (See pages 61, 96, 99 and 181.) This amendment, in order to extend the provisions of the “Bill of Rights” to the new citizens, further provided that no State shall

deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Amendment XV., made in 1870, was the final step in granting full rights of citizenship to the freedmen. By the Thirteenth Amendment their freedom had been recognized. By the Fourteenth they have been declared citizens and their civil rights have been enumerated. The Fifteenth extended to them political rights under the limitations imposed by the laws of the several States by providing that:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation.

Object of Amendments.—The province of the amendments is briefly stated by Judge Cooley, as follows:

The first amendments were for the purpose of keeping the central power within due limits at a time when the tendency to centralization was alarming to many persons; the last were adopted to impose new restraints on State sovereignty at a time when State powers had nearly succeeded in destroying the national sovereignty.

CONSTITUTIONAL RIGHTS OF PRIVATE CITIZENS.

Private Rights, "Bill of Rights."

{	Freedom of	{	Religion.	
		{	Speech.	
		{	Press.	
	Right to bear arms.			
{	Prohibiting	{	Quartering troops.	
			Search warrants (general).	
		{	Houses.	
			Papers.	
			Effects.	
{	Right, if accused of a crime	{	To be indicted by Grand Jury.	
			<i>Not</i> to be { Twice tried for same offense.	
			Compelled to testify.	
		{	Speedy <i>and</i>	} Trial.
			Public	
		{	To be confronted by	} Witnesses.
			To compel attendance of	
		{	Required excessive bail.	
			<i>Not</i> to be { Subject to { cruel <i>or</i> } Punish.	
			unusual	} ments.
{	Right to Jury Trial in	{	Criminal	} Actions.
			Civil	
{	Right to	{	Life	} and can only be deprived by
			Liberty	
			Property	
				} due process of law.

Public Rights.

{	Prohibiting	{	Slavery.	[ment for crime.
			Involuntary servitude, except for punish-	
{	Not to deny right to vote on account of	{	Race.	
			Color.	
			Previous condition of servitude.	

PART FOURTH.

PRINCIPLES OF LAW.

CHAPTER I.

INTERNATIONAL LAW.

Definition.—International Law, or the Law of Nations, in its commonly accepted meaning, is the code of rules which civilized nations recognize by consent and usage as that which should govern their mutual intercourse. In a more general sense it comprises those principles of natural right and justice which should regulate international conduct.

1. RULES IN TIME OF PEACE.

Divisions.—Rules in time of peace may be divided into four classes—those relating to (1) Sovereignty, (2) Territory, (3) Aliens and (4) Intercourse.

1. SOVEREIGNTY.

Recognition of Sovereignty.—Every state or nation is independent and sovereign, and the equal in that respect of every other state in the world, without regard to the extent, power or character of its government. In a nation with a federal form of government, this rule applies to the central government alone.

Intervention.—It is a violation of a nation's sovereignty to interfere with its domestic affairs or to intervene in case of civil war. However, in extreme cases, intervention is considered justifiable upon the ground of humanity, as when a government is conducting a war with great cruelty, or to "maintain the balance of power," as where a nation whose increase of power may become a menace to its neighbors is restrained in its aggression upon a weaker state. This has often happened in Europe. Of somewhat the same character was the Monroe Doctrine, promulgated in 1823, which declared that the United States would "consider any attempt on the part of the allied European powers to extend their system to any portion of our hemisphere as dangerous to our peace and safety."

2. TERRITORY.

Definition.—The land over which a state has exclusive political control is its territory, and its rights of government are called *territorial rights*. Such territory may be acquired either by discovery and occupation, by possession for a long time, by conquest or by gift or purchase. The transfer of territory from one nation to another is termed *cession*. A state bounded by the ocean, or *high seas*, possesses territorial rights over a strip of water three marine miles wide extending along its coasts and over the sea between adjacent headlands. Such a strip of sea is termed *territorial waters*. Rivers flowing between two states belong to both, but rivers passing from one state into another are part of the territory of each state while within its boundaries.

The ships of a nation in the territorial waters of another nation must obey its laws, but on the high seas they are subject only to the laws of their own country.

3. ALIENS.

Definition.—*Aliens* are persons within a country other than that to which they owe allegiance. They are generally subject to the laws of the state where they are, but this rule does not apply to sovereigns, their diplomatic representatives, or to the ships of war and military forces of other states.

Rights.—A *domiciled alien*—that is, one having a residence or a domicile—cannot usually own land or take part in the government, but he may hold other property, make contracts and claim protection of the courts, and is subject to taxation and to the requirements usually imposed upon citizens. Aliens, however, who are travelers only, are exempt from many of these duties and are entitled to special privileges.

Naturalization.—An alien may become a citizen of the country of his domicile by taking an oath of allegiance to the government. This is called *naturalization*, and nearly all nations now recognize that this act severs the relationship of the person with the country to which he formerly owed allegiance. This severance of relationship is called *expatriation*.

Criminals and Extradition.—Aliens who are fugitives from justice are subject to special rules. If their crimes are of a political nature they will not generally be given up on the demand of another government, but if they

have committed felonies, they are usually surrendered to the state in which the crime was committed. This is called *extradition*.

4. INTERCOURSE.

Treaties.—The most important duty devolving upon diplomatic representatives (see page 132) is the negotiation of treaties. The usual subjects of treaties are peace and friendship, commercial privileges, postal service, extradition, fisheries, boundaries, annexation and the settlement of claims. There are also treaties which establish Joint High Commissions, Mixed Commissions and Tribunals of Arbitration for the settlement of controversies.

International Commissions and Arbitration.—A *joint high commission* is constituted of an equal number of commissioners from each country, and matters upon which they may disagree are usually submitted to an *umpire*, named by the two interested governments or by the chief magistrate of another nation, and the decision of the umpire is final. In some instances the umpire sits with the commissioners during their sessions, in which case the body is termed a *mixed commission*. A *tribunal of arbitration* is generally distinguished from a mixed commission by the importance of the subject submitted to it, and because more than one nation besides the parties to the controversy appoint arbitrators. International arbitration is becoming more and more employed by governments, and all questions in dispute are considered proper for arbitration except those that involve a nation's honor or dignity, such as an insult to its flag or official representatives.

2. RULES IN TIME OF WAR.

War.—*War* is a public contention between two governments through the agency of their armies and navies. An insurrection which is not sufficient to support a form of government is not a war, but when the insurgents are strong enough to maintain a government, an uprising of this character becomes a *civil war*.

Condition of States between Peace and War.—When a nation has suffered a wrong for which satisfaction is refused, it may, before an actual appeal to arms, employ reprisal or embargo to obtain redress. A *reprisal* is the seizure and retention of the ships and property of the citizens of an offending state until satisfaction is accorded. An *embargo* is the detention by a nation of the ships and cargoes within its ports. It is the duty of a government, before commencing war, to exhaust every means to obtain a peaceful settlement of the difficulty. The last demand for satisfaction which is made upon an offending state is termed an *ultimatum*. It is usually peremptory in style, and limits the time for compliance, and if the other nation refuses to agree to its terms, war follows. The commencement of a war divides nations into two classes, those who are actually engaged in the war, called *belligerents* (war-wagers), and those who are not, called *neutrals* (neither-sided).

3. OBLIGATIONS OF BELLIGERENTS TO EACH OTHER.

Treaties.—As a rule, all treaties between two contending nations are abrogated or abolished by the commencement of war, but a treaty relating to the method of

conducting hostilities and those which recognize a state's independence or fix its boundaries are not affected.

Citizens.—Theoretically, all the citizens and residents of belligerent states, as well as the governments, are hostile to each other, and they are liable to detention and their goods to seizure ; but this rule has been much modified by the growing sentiment against causing non-combatants to suffer for the public wrongs done by their government.

Conduct of Hostilities.—The rules of civilized warfare are intended to lessen as much as possible the horrors and sufferings which it inflicts upon the individual. The most important rules prohibit a belligerent from:

1. The employment of savages against an enemy ;
2. The unnecessary infliction of suffering to the people and injury to the private property of an enemy, as in the case of massacre and pillage ;
3. The inhuman treatment of prisoners ;
4. The confiscation of private property, except when justified by necessity ;
5. The use of poison and poisoned weapons.

Communications.—The communications between hostile armies are carried on by means of *flags of truce* and *cartels*. The first are employed for any communication between belligerents, while the latter are agreements for the exchange of prisoners.

Rules on Sea.—The restrictions imposed upon a belligerent apply chiefly to hostilities upon land, and have not been so generally applied to naval operations. The vessels and cargoes owned by the citizens of an enemy may, therefore, be seized by a hostile government. *Letters of*

marque and reprisal are commissions issued to vessels termed *privateers* fitted out by private citizens, which entitle them to capture the vessels belonging to the citizens of an enemy. Privateering has, however, fallen into general disuse since 1856, when it was discontinued by the European nations under the "Agreement of Paris."

Capture and Prize.—The seizure of an enemy's ship or cargo is termed *capture*, and the property is called *prize*. The title to a prize does not pass to the captor until it has been decreed by a court, known as a *prize court*, which is given jurisdiction in such cases by the belligerent government.

Truce, and Termination of War.—Hostilities may be temporarily suspended for a definite time by an agreement termed a *truce* or *armistice*. A war is terminated and peace restored by a proclamation of sovereignty by the conquering nation or by a treaty between the belligerents. A *treaty of peace* usually contains agreements as to the disposal of prisoners, the withdrawal of military forces, the cession of territory, the payment of indemnity and other subjects of a like nature.

4. OBLIGATIONS OF NEUTRALS AND BELLIGERENTS TO EACH OTHER.

Recognition of Belligerency.—A *state of neutrality* exists only when there is a war. It is important, therefore, for a nation to determine whether an armed contention is a civil war or an insurrection. This may be shown by the acts of a government in relation to its rebellious citi-

zens, such as the proclamation of a blockade of insurgent ports or official negotiations with the insurgent government. Under these circumstances other governments will recognize the belligerency of the rebels. So, also, a nation will recognize the belligerency of insurgents when it is convinced that they have established a stable and responsible government. It is the duty of neutrals to act with impartiality towards both belligerents. They must not permit the enlistment of men for the armies or navies of either belligerent. They must not allow the ships of either to be built or fitted out in their ports, nor must they loan money to either. The citizens of a neutral nation are also prohibited from carrying contraband of war and from attempting to break a blockade.

Contraband of War.—*Contraband of war* comprises articles which may be employed in carrying on war, such as arms, munitions, ships, beasts of burden, and in some cases even money and provisions ; and belligerents possess the right to seize such articles when found in a neutral ship, unless in the waters of a neutral nation. The vessel and the remainder of the cargo, however, are exempted from seizure unless they belong to the owner of the contraband goods.

Blockade.—A *blockade* is the right to prevent and make unlawful all trade and intercourse with certain specified ports or portions of the enemy's coast. It is enforced by means of a fleet which intercepts vessels which attempt to enter or leave the blockaded territory. As blockade is purely a war right, a nation cannot blockade its own ports ; and therefore, in the case of an insurrection, the proclamation of a blockade of coasts held by

insurgents is a recognition of their belligerency. Any attempt to violate a blockade subjects a ship to capture, provided that the blockade is *actual*—that is, that there is sufficient naval force present to maintain it ; that the offending neutral had knowledge that a blockade existed ; and that there was an attempt to “run the blockade.”

Visit and Search.—In order to make the rules as to contraband of war and blockade effective, a belligerent possesses the right of *visit and search*, by which its cruisers are authorized to stop and examine ships on the high seas for the purpose of ascertaining their nationality, destination and the character of their cargoes. And to this right neutrals must submit.

INTERNATIONAL LAW.

RULES IN TIME OF PEACE.

Sovereignty :

{	<i>Recognition of Sovereignty</i>	{ Equality.
		{ Independence.
{	<i>Intervention because of</i>	{ Balance of power.
		{ Monroe Doctrine.
		{ Humanity.

Territory :

{	<i>Acquisition by</i>	{ Discovery and occupation.
		{ Prescription.
		{ Conquest.
		{ Gift or purchase.
{	<i>Rights over</i>	{ Territory.
		{ Territorial waters,
		{ Rivers.
		{ Ships,

Aliens:

<i>Exempt from Rules</i>	{	Sovereigns.	
		Diplomatic representatives.	
		Public ships.	
		Military forces.	
<i>Domiciled</i>	{	Rights to	
		{	Hold personal property.
			Make contracts.
			Appeal to courts.
<i>Temporarily Resident</i>	{	Duties—those of a citizen.	
		Rights—special privileges.	
<i>Naturalization.</i>	{	Duties—obedience to laws.	
		<i>Extradition.</i>	

Intercourse:

{	<i>Diplomatic Channels</i>	{		Ambassadors.
		{		Ministers.
		{		Diplomatic Agents.
		{		Chargés d'Affaires.
{	<i>Treaties</i>	{		Peace and friendship.
		{		Commercial privileges.
		{		Postal service.
		{		Extradition.
		{		Annexation.
		{		Fishery rights.
		{		Boundaries.
{	<i>Arbitration</i>	{		Claims.
		{		Joint High Commissions.
		{		Mixed commissions.
		{		Tribunals of arbitration.

RULES IN TIME OF WAR.

<i>Acts prior to Actual War</i>	{	Reprisals.
		Embargoes.
		Ultimatum.

I. OBLIGATIONS OF BELLIGERENTS TO EACH OTHER.

Effects on Relations:

{	<i>Public</i>	{	Treaties	{	Not abrogated, when <i>final</i> .
					Abrogated, when <i>not final</i> .
{	<i>Private</i>	{	Liability	{	Detention of person.
					Seizure of property.

Conduct of Hostilities on Land:

{	<i>Hostile Acts Prohibited</i>	{	Employment of savages.
			Massacre and pillage.
			Inhumanity to prisoners.
			Confiscation of private property.
			Use of poison.
{	<i>Communica- tion by</i>	{	Flags of truce.
			Cartels.

Conduct of Hostilities at Sea:

<i>Capture and Prize</i>	{	by public ships.
		by privateers.

Cessation of Hostilities:

Truces.

Termination of War—by Treaty:

<i>Subjects of Peace Treaties</i>	{	Disposal of prisoners.
		Withdrawal of troops.
		Cession of territory.
		Payment of indemnity.
		Etc., etc.

II. OBLIGATIONS OF NEUTRALS AND BELLIGERENTS TO EACH OTHER.

Belligerency :

<i>Recognition of</i>	By act of other belligerent	{ Proclamation of blockade. Negotiations with other party.
	By neutral.	

Neutrality :

<i>Violation of</i>	{ By neutral nation	{ Enlistment of men. Fitting out ships. Loaning money.
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Neutral Trade :

<i>Prohibitions</i>	To carry contraband of war	{ Arms. Munitions. Ships. Beasts of burden. Money and provisions (in some cases).
	To break a blockade when	{ Blockade is actual. Neutral had knowledge Attempt to break it.
<i>Visit and Search.</i>		

CHAPTER II.

MUNICIPAL LAW.

Definitions.—Municipal Law consists of those rules of conduct prescribed by the supreme power of a state to regulate the relations between the state and its citizens, or between the citizens themselves. It is either *written* or *unwritten*. The unwritten law of this country comprises Common Law and Equity (see page 162). The written law of the United States consists of the Federal Constitution, the Acts of Congress and Treaties. The written law of a State consists of its constitution and statutes. A *statute* is a law established by the legislature of a State.

Object.—The object of Municipal Law is to protect rights and punish wrongs. Rights are of two kinds—*political* and *civil* (see page 4). So, also, wrongs are of two kinds—public, or *crimes*, and private, or *torts*.

1. CIVIL RIGHTS.

1. ABSOLUTE RIGHTS.

Personal Security.—This includes the *right of life*, the violation of which is one of the gravest of crimes; and the *right of reputation*—that is, the favorable opinion of others—defamation of which, if oral, is *slander*, and if by writing or printing, *libel*.

Personal Liberty.—This is the natural right of every person to move about or remain at rest, except as he is restrained by law.

Personal Property.—This is the natural right of every person to acquire, use and dispose of property in any manner save as he is restrained by law. *Property* is that which can be exclusively owned or enjoyed, as a horse, a house, or land. But air, light and the unconfined forces of nature, although capable of enjoyment, are not property.

Divisions of Property.—Property is divided into real and personal. *Real property* is that which is considered immovable, as land. *Personal property*, also called *chattels*, is that which is considered movable, as horses and machinery. Real property includes lands and certain rights connected with the use of land, such as a *right of way*, or passage over the lands of another; a *franchise*, or the right to exercise certain privileges, such as to build and manage railroads; and *rent*, or the right to receive a regular profit from lands. Personal property consists of tangible movable objects, of certain minor rights connected with real property, and of such property as stocks, promissory notes, copyrights and debts.

Estates in Real Property.—The interest of a person in property is called an *estate*. Estates in real property are *real estate*, which is a permanent and unending interest, and *personal estate*, which is one with some termination. Real estates in real property are of two kinds—an *estate in fee*, which gives the owner power to absolutely dispose of the property, and which, if not disposed of, descends to his heirs; and an *estate for life*, which gives the owner

power only to use the property during his life or during the life of another. Among the most important life estates is an *estate in dower*, which is one that a surviving wife has in one third of the real property owned by her husband at any time during their married life, and which was not disposed of with her consent.

Leases.—The most important personal estate in real property is an *estate for years*, which begins and ends at specified dates and is created by an instrument called a *lease*. The *lessee* or *tenant* does not own the land, but has the right to its use during the term of the lease. He is usually required to make ordinary repairs to the premises, and to pay to the *lessor* or *landlord* a fixed amount for the use of the premises, called *rent*. If the tenant does not pay his rent as agreed, the landlord may cause him to be removed from the premises. This is called *eviction*.

Estates in Personal Property.—Estates in personal property are of two kinds—*absolute*, one that cannot be destroyed without the act of the owner ; and *qualified*, one that can be destroyed or lost without the act of the owner, such as that in wild animals.

Title.—*Title* is the right of ownership of an estate. Titles to real property are of two kinds—by *descent*, as where an heir inherits the estate from his ancestor ; and by *purchase*, which includes all other means of acquisition. The most common title by purchase is that created by *act of the parties*, which includes title by grant and title by devise. *Title by grant* is either *public*—that is, a title from the United States or a State by an instrument called a *patent* ; or *private*—that is, from another person by a written instrument called a *deed*. *Title by*

devise is that obtained by a written instrument called a *will*.

Title to personal property may be acquired either by the *sole act of the owner*, such as that in property which a person produces, or in a wild animal which he captures ; by *operation of law*, such as that acquired in the personal property of a relative who died without leaving a last will and testament ; and by the *joint act of the present and former owners*, such as that created by a gift, last will and testament or contract. *Title by gift* is that which a person has in property gratuitously transferred to him. *Title by last will and testament* is that by which one becomes the owner of personal property of a deceased person by the last will and testament of such person. *Title by contract* is that by which a person becomes the owner of personal property through its voluntary transfer to him by another for some consideration.

Contracts.—A *contract* is an agreement between two or more persons to do or not to do some thing. Four conditions are necessary to a complete contract: (a) Parties able to contract ; (b) a sufficient consideration ; (c) a subject to be contracted for ; and (d) an actual agreement, or, as it is called, a “meeting of the minds.”

Parties.—Parties able to contract must be of full age. Contracts by minors, except for necessary articles of support, are not binding upon them. They must be of full understanding. Contracts made with idiots or others deprived of their minds are of no effect, as against them. They must also be free to contract. Any agreement made by a person under restraint or force is not binding upon him.

Consideration.—A *consideration* is (a) something of value to the person receiving it, or of detriment to the person giving it, (b) love and affection existing between a parent and child or husband and wife, or (c) mutual promises made between persons at the same time.

Subject.—The subject of a contract must be something real, as property, service or labor. It must also be lawful and moral. Contracts for smuggling or other unlawful acts are not binding.

Classes of Contracts.—Contracts are either *oral*—that is, by word of mouth—or *written*. Written contracts are either under seal—that is, with a seal affixed to the signature—or without seal. The most common forms of contracts under seal are deeds and mortgages.

Deeds.—A *deed* is defined as a writing, signed, sealed and delivered between the parties. It is the instrument by which private grants of land are made. The person making the deed is called the *grantor*; the person to whom it is made, the *grantee*. A deed must name the parties, describe the consideration, the property and estate conveyed, and contain the signature and seal of the grantor. The most common deeds are *quitclaim* deeds, by which the grantor disposes merely of his interest in the property, and *warranty* deeds, by which the grantor guarantees that he is the owner of the property and promises to protect the grantee in his possession. The *execution* of a deed is the actual signing and affixing of a seal. In most States, before a deed can be placed on record, the grantor is required to acknowledge that he executed the deed before an officer, such as a judge, justice of the peace or notary public, who must certify to

the fact in writing upon the instrument. The deed so executed and acknowledged is of no effect unless it is actually delivered to the grantee.

Mortgages.—*Mortgages* resemble deeds in that they are transfers of interest in real property, and require the same formality in their execution, acknowledgment and delivery. They do not, however, constitute actual transfers of the title, like deeds, but only a claim to the property as security for the payment of some indebtedness. A mortgage must contain a description of the parties, called the *mortgagor* and *mortgagee*, the consideration, the property mortgaged, and, among other things, a clause stating that the grant is made as security for the payment of some indebtedness, with the terms of payment, and that upon such payment the grant becomes void. Mortgages usually accompany *bonds*, which are obligations to pay certain moneys at certain times. They are then spoken of as *collateral security*, because they can only be enforced in case the conditions of the bond are not fulfilled. A mortgage is enforced by *foreclosure*, which is a legal remedy by which the property described in the mortgage can be sold and the proceeds applied to the payment of the debt. It is usual in the case of both deeds and mortgages for a wife to join in the execution with her husband. In this way only is the property relieved of her dower interest which she has in it by reason of the marriage.

Protection to Grantees and Mortgagees.—For the purpose of avoiding difficulties it is customary for grantees and mortgagees to require with the deed or mortgage a *search* or *abstract of title*, which is a synopsis from

the public records, extending over a number of years and showing the source and character of the title of the grantor or mortgagor to the property. For further protection deeds and mortgages are usually *recorded*, that is, copied in full in the office of the County Clerk or Registrar of Deeds of the county where the property is situated. If not so recorded, the grantee or mortgagee is liable to lose the interest granted to him, for it is a rule of law that if there be two or more deeds or mortgages upon the same property, the one first recorded takes preference over all the others without regard to its date.

Chattel Mortgages.—A *chattel mortgage* is a mortgage upon personal property, given as security for the payment of an indebtedness. This does not have to be recorded, but for protection it is usual to *file*, that is, deposit a copy in the office of the Clerk of the Town where the property is.

Other Written Contracts.—Contracts in writing, not required to be under seal, are: (a) Contracts to sell any interest in lands; (b) contracts for services that cannot be performed within a year; (c) contracts for the purchase and sale of personal property exceeding in value a certain amount, usually fifty dollars; (d) contracts to be responsible for the debt of another. The last is known as *guaranty*, and the person making such guaranty is called a *guarantor*.

Sale.—A contract of *sale* is one by which the ownership of personal property is transferred to another for a *money* consideration. The person making the sale is called the *vendor*; the purchaser, the *vendee*. Among the rules governing sales are the following: (a) If the goods are

sold by sample, they must be as good as the sample; (b) if the goods are ordered for a particular purpose, known to the vendor, they must be suited to the purpose; and (c) in the sale of foods they must be wholesome.

Bailment.—A contract of *bailment* is one by which the possession of personal property is transferred from one person, called the *bailor*, to another, called the *bailee*, for some purpose, to be returned when the purpose is accomplished. The most important bailment is called *locatio*, and is the delivery of an article to the *bailee* for *his* use upon compensation *to* the *bailor*; or for the performance of labor upon an article *by* the *bailee* upon compensation *from* the *bailor*. The hiring of horses, the repairing of a watch by a watchmaker, the transportation of goods by railroad companies and the care of property by innkeepers are instances of *locatio*.

Agency.—A contract of *agency* is one by which a person appoints another to act for him in some business transaction. The person making the appointment is called the *principal*; the person appointed, the *agent*. Agents are of two kinds—*general*, who perform all the business of the principal at a particular place; and *special*, who are employed for some particular purpose. Among the rules governing agency, the most important one is that any contract or act of the agent within the line of his employment is binding upon the principal.

Partnership.—A contract of *partnership* is one by which two or more persons unite their labor or property or both in some business in which they agree to share the losses and divide the profits. In this relation the partners own

in common all the property, and each partner is the agent of the partnership. For the debts of the partnership, not only the common property, but the individual property of the partners is liable after the partnership property is exhausted.

Corporations.—A *corporation* is a body of individuals created by law under a special name, with the power of acting as a single individual. Corporations are either *public*, as a city or county, or *private*, as those organized for religious, charitable, social, manufacturing and business purposes. Their usual powers, derived from general laws or a special act, called a *charter*, are to sue and be sued ; to purchase and own lands and chattels ; to make by-laws for their government ; to remove members and elect others in their place or in place of those who may die. Besides these, exceptional privileges, such as to erect telephone poles or lay pipes, are sometimes given to a corporation. This is called a *franchise*. The capital of a manufacturing or business corporation is divided into shares of stock, and those who own the shares are called members or *stockholders*. The stockholders elect some of their number *directors* or *trustees*, to carry on the affairs of the corporation, and these, as a *board*, choose its officers. The liability of stockholders, directors and officers for the debts of a corporation are fixed by statute.

Insurance.—A contract of *insurance* is one by which a person or corporation, in return for certain compensation, known as *premium*, undertakes to indemnify another against loss or injury. *Fire and marine insurance* cover losses sustained by fire or the mishaps of shipping. *Life insurance* is a contract by which the insurer agrees to

pay a certain sum to the insured after the expiration of a fixed time, or to his representatives at his death. The contract of insurance is contained in an instrument called a *policy*, which also contains a description and facts relative to the insured person or property, known as the *risk*, and any misrepresentations on the part of the insured at the time of making the contract will release the insurer from liability.

Indorsement.—A contract of *indorsement* is one by which a person agrees that he will pay the amount of a negotiable paper to its holder when due, if the maker does not. *Indorsement* consists in the writing by a person of his name across the back of the instrument. *Negotiable paper* consists of promissory notes, bills of exchange, checks, etc., when they are payable to some person or “bearer” or “order.” A *promissory note* is a promise in writing to pay a certain sum of money at a certain time. The party signing the note is the *maker*; the person to whom it is payable, the *payee*. A *bill of exchange*, also called a *draft*, is an order in writing by one person upon another to pay a certain sum of money to a third person either upon presentation or at some time after date of presentation. The person upon whom such order is made is not liable therefor until he *accepts it*—that is, promises in writing upon its face to pay it. He is then called an *acceptor*, and becomes the principal debtor. A *check* is a written order upon a bank to pay to a person named a sum of money and charge the same to the account of the person making the check. To fix an indorser’s liability the negotiable paper must be presented for payment, at the time it becomes due, at the

place where it is payable. If payment is refused, the instrument is *protested*—that is, non-payment is certified—usually by a notary public, and notice of this fact must be given at once to the indorser.

Liens.—A *lien* is the right of a person to retain possession of the property of another until certain demands are satisfied. Among those entitled to this right are innkeepers and railroad companies for their services upon the property which they have cared for or carried. They may sell the property and apply the proceeds to the payment of the claims. *Mechanic's liens* are those held by contractors, mechanics and others who furnish labor and materials for buildings. They are governed by statute, and can only be enforced by legal proceedings similar to the foreclosure of a mortgage.

Remedies for Violation of Contracts.—If there is a violation of a contract, the injured party has a remedy by legal action by which he can compel the performance of the contract or can recover money damages for the injury he has sustained.

Wills and Testaments.—A last *will* and *testament* is an instrument, usually required to be in writing, by which a person disposes of his property, to take effect after his death. Only persons of full age and mental capacity can make wills of *real* property, but in some States certain minors can so dispose of their *personal* property. (A person dying without a last will and testament is said to die *intestate*.) It is necessary that the instrument be signed by the maker, called the *testator*, who in most States must acknowledge such act, with the statement that it is his last will and testament, in the presence of two or

more witnesses, who are not interested in the will, and who then sign, in the presence of each other and the testator, a statement of such execution and acknowledgment. Changes are sometimes made in wills and testaments, by instruments called *codicils*, which must be executed with the same formalities as the original instruments. A will and testament becomes effectual upon the death of the testator, unless it has been destroyed by his direction or has been expressly revoked by a subsequent will. After the death of the testator the will and testament are proved, or *probated*, before a surrogate or probate judge, and the real property passes at once to those entitled to it. The affairs of the estate are settled, and distribution of the personal property is usually made by a person named in the will, called an *executor*. When a person dies intestate his real property passes directly to his heirs, and his affairs are settled and his personal property is distributed by an officer appointed by the surrogate, called an *administrator*.

2. RELATIVE RIGHTS.

Husband and Wife.—The contract of marriage is regulated by statute in the several States, but as a rule the following persons are debarred: (a) Males under fourteen and females under twelve years of age ; (b) persons having another husband or wife living ; and (c) persons related to each other within certain degrees. The mutual promises of the parties constitute the consideration. In some States a license issued by an official is required before a marriage can be celebrated. *Divorce* is the judicial termination of a marriage contract ; the grounds upon

which it is granted are fixed by statute. In the marriage relation the husband is considered the head of the family. He can determine the place of abode and can compel the wife's return if she leaves him without cause. He is required to support and protect her, and in the buying of articles for the home the wife is considered the agent of the husband, so long as she lives with him ; but he is released from all obligations of this character if she leaves him without cause.

Parent and Child.—Children owe to their parents *obedience* and *service* during their minority. Parents are obliged to protect the child, provide necessary food and clothing, and educate him according to his station in life.

Guardian and Ward.—A *guardian* is one who has the care of the person or property of a minor, called a *ward*. A guardian of the person is entitled to obedience, but not service. A guardian of the property must support and educate the ward according to the ward's station and property. He cannot make any profit out of the property for himself, and is liable for any loss occasioned by his negligence.

Master and Servant.—A *master* is one who by virtue of a contract has authority over another person, called a *servant*. Servants are of two kinds—*apprentices*, or those placed under the authority of another for the purpose of learning some trade ; and *hired servants*, or those who engage to render services in return for wages. The master is entitled to obedience and service during the term of the contract. The servant is entitled to receive the agreed wages during the time of the contract, unless he leaves or is discharged for cause.

2. WRONGS.

1. TORTS.

Torts.—A *tort* is the intentional and wrongful doing or not doing of some act by which another is injured. The most common torts are slander, libel, fraud and assault. *Slander* is the willful injury of the reputation of another by spoken language. *Libel* is the willful injury of the reputation of another by writing, printing, engraving or other permanent form. Libel is also a crime. *Fraud* is a false representation, made with the intent to deceive, and resulting in actual injury. *Assault*, which is also a crime, will be defined later.

2. CRIMES.

Definitions.—A *crime* is an act or omission forbidden by law and punishable by death, imprisonment, fine or other penalty. A *felony* is a crime punishable by death or imprisonment in a state prison. All other crimes are *misdemeanors*. Two elements are necessary to constitute a crime—the criminal intent and the criminal act. A *principal* is one who commits the crime, or one who is present aiding and abetting the act. An *accessory* is one who, not present, yet aids and abets the commission of a felony, or one who, with knowledge of the crime, aids the offender to avoid arrest and punishment. In the commission of treason and misdemeanors all the wrongdoers are principals.

Crimes against the State.—The principal crimes against the State are treason, illegal voting, bribery, aiding

escape of prisoner, counterfeiting, forging, perjury and influencing another person to swear falsely, which is called subornation of perjury.

Crimes against Persons; Suicide.—The principal crimes against persons are suicide, homicide, assault, robbery and libel. *Suicide* is the intentional taking of one's own life. The attempt to commit suicide is also a crime.

Homicide.—*Homicide* is the killing of a human being by another. *Murder in the first degree* is the wrongful killing of a person either with a premeditated design to cause his death; or by a reckless act dangerous to life, although without intent to take life; or by a person engaged in the commission of a felony. The usual punishment is death or life imprisonment. *Murder in the second degree* is the intentional killing of a human being without premeditation. The usual punishment is life imprisonment. All other forms of homicide are termed *manslaughter*. Homicide is *excusable* when committed by accident. Homicide committed in the defense of self or another is *justifiable*. No person can be convicted of homicide unless it is proved that a life has been taken and that he is the one who took it.

Assault.—An *assault* in its highest form is either an attack upon a person with intent to kill or commit a felony, with a weapon likely to produce death; or the administration of poison or drugs dangerous to life. It is a felony. *Assault and battery* is an attack upon a person with the fists with the intention to do him bodily injury. This is a misdemeanor.

Robbery.—*Robbery* is the unlawful taking of personal property from a person against his will, by force or vio-

lence, or by arousing fear in such person. Secretly picking a person's pocket is not robbery.

Crimes against Property; Arson.—The principal crimes against property are arson, burglary and larceny. *Arson* in its highest degree consists in setting fire at night time to a building or car or other structure in which there is a human being. The punishment varies in the different States, the most severe being imprisonment for life.

Burglary.—*Burglary* is the forcible entering of a house or room for the purpose of committing a crime. Its highest degree occurs when such entry is made in the night, when a human being is within, by a person armed with a dangerous weapon. It is a felony.

Larceny.—*Larceny* is the taking, concealing or withholding of personal property with the intent to deprive the owner of its possession. The highest degree, called *grand larceny*, consists in taking property from the person of another in the night time, or in the taking at any time of property above a certain value. All other stealing is *petit larceny*.

Bigamy.—The principal crime against public morals is bigamy. It is *bigamy* when a person, having a living husband or wife, marries another.

Arrest.—*Arrest* is the apprehension of an offender in order that he may be punished for his crime. It is usually made by an officer upon a *warrant*, which is a mandate of a court commanding the arrest of the offender. But an arrest may be made without a warrant when the offender is detected in the actual commission of a crime.

MUNICIPAL LAW.

MUNICIPAL LAW	{	UNWRITTEN	{	Common Law.	
				Equity.	
	{	WRITTEN	{	Federal	{ Constitution.
					{ Acts of Congress (Federal Statutes).
					{ Treaties.
			{	State	{ Constitutions.
					{ Acts of Legislatures (State Statutes).

CIVIL RIGHTS.

I. ABSOLUTE RIGHTS:

1. *Personal Security* { Life.
Reputation.

2. *Personal Liberty.*

3. *Private Property.*

Real Property { Rights of { Ways.
Franchises.
Rents.

Personal Property.

Estates—

In Real Property.

{	As to Tenure	{	Real Estates	{	in Fee.	{	Life Estate.
					for Life		Dower.
{	As to Title	{	Personal Estates (Lease)	{	Landlord and Tenant.	{	Public—Patent.
			by Descent.				Grant
			by Purchase				by Devise—Will.

In Personal Property.

{	As to tenure	{	Absolute.	
			Qualified.	
	As to Title	{	By operation of law.	
			By sole act of owner.	
			By joint act of parties	{ Gift. Will and testament. Contract.

ABSOLUTE RIGHTS—*Continued.***Contracts—***Conditions as to.*

{	Parties	{	Of full age.
		{	Of full understanding.
		{	Free to contract.
Consideration.			
{	Subject	{	Moral.
		{	Lawful.
Meeting of the minds.			

Classes.

{	Oral.				
{	Written	{	Under seal	{	Deed { Warranty Quitclaim Etc., etc. } Signed, Sealed, Acknowledged, Delivered and Recorded.
					{
	{	Not under seal	{	For purchase { Lands. and sale of { Personal property over \$50.	
					Which cannot be performed in a year.
					Guaranty.
					Chattel mortgage.
{	Sale	{	Implied warranty	{	From sample.
					As to food.
	Bailment.				
{	Agency	{	General	{	Principal and agent.
			Special		
{	Partnership			{	Public.
			Corporation		{
{	Insurance	{	Fire	{	Policy and premium.
			Marine		
			Life, etc.		
{	Indorsement	{	Negotiable paper	{	Promissory note (maker, payee).
					(draft) { After date
					Liability of indorser (presentation, non-payment, protest, notice).
	Liens.				

Remedies.

{	Enforce performance.
{	Recover damages.

Wills and Testaments.

{	Execution.	Testator and Intestate.
{	Addition (codicil).	Executors and Administrators.
{	Probate.	

II. RELATIVE RIGHTS:*1. Husband and Wife.*

{	Marriage	{	Rights and duties	{	Residence.
					Return.
{	Divorce.				Protection.
					Support.

2. Parent and Child.

Duties of	{	Child	{	Obedience.
				Service.
	{	Parent		Protection.
				Support.
			{	Education.

3. Guardian and Ward.

Guardian	{	Of person,	Entitled to obedience.	
		Of property	{	Must support } from property of ward.
			{	Must educate

4. Master and Servant.

{	Apprentice.
{	Hired Servant.

WRONGS.**I. TORTS:****Classes.**

{	Slander.
{	Libel.
{	Fraud.
{	Assault.

II. CRIMES:**Divisions.**

{	Felonies.
{	Misdemeanors.

Criminals.

{	Principal.
{	Accessory.

Against State.

{	Treason.
{	Illegal voting.
{	Bribery.
{	Aiding a prisoner to escape.
{	Counterfeiting.
{	Forging public records.
{	Perjury.

CRIMES—*Continued.*

Against Persons.

{	Suicide.		
	Homicide	{ Murder	{ 1st degree
		{ Manslaughter	{ 2d degree { Excusable and
			{ Justifiable Homicide.
{	Assault	{ With intent	{ To kill.
		{ and battery.	{ To commit a felony.
{	Robbery.		

Against Property.

{	Arson.		
	Burglary.		
{	Larceny	{ Grand.	
		{ Petit.	

Against Public Decency and Morals (Bigamy).

III. ARREST:

With a warrant.

Without a warrant.

APPENDIX I

THE DECLARATION OF INDEPENDENCE

In Congress, July 4, 1776

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.—Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries

and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation :

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offenses :

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our government :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms : our repeated petitions have been answered only by repeated injuries. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these

usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and holds them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the Representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

New Hampshire—Josiah Bartlett, Wm. Whipple, Matthew Thornton.
Massachusetts Bay—Saml. Adams, John Adams, Robt. Treat Paine, Elbridge Gerry.

Rhode Island—Step. Hopkins, William Ellery.

Connecticut—Roger Sherman, Sam'el Huntington, Wm. Williams, Oliver Wolcott.

New York—Wm. Floyd, Phil. Livingston, Frans. Lewis, Lewis Morris.

New Jersey—Richd. Stockton, Jno. Witherspoon, Fras. Hopkinson, John Hart, Abra. Clark.

Pennsylvania—Robt. Morris, Benjamin Rush, Benja. Franklin, John Morton, Geo. Clymer, Jas. Smith, Geo. Taylor, James Wilson, Geo. Ross.

Delaware—Cæsar Rodney, Geo. Read, Tho. M'Kean.

Maryland—Samuel Chase, Wm. Paca, Thos. Stone, Charles Carroll of Carrollton.

Virginia—George Wythe, Richard Henry Lee, Th. Jefferson, Benja. Harrison, Thos. Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.

North Carolina—Wm. Hooper, Joseph Hewes, John Penn.

South Carolina—Edward Rutledge, Thos. Heyward, Junr., Thomas Lynch, Junr., Arthur Middleton.

Georgia—Button Gwinnett, Lyman Hall, Geo. Walton.

APPENDIX II

DELEGATES TO THE CONSTITUTIONAL CONVENTION

Those with numbers before their names signed the Constitution, while those whose names are in italics were appointed delegates, but did not attend the Convention.

NEW HAMPSHIRE.

- | | |
|------------------------|-----------------------|
| 1. John Langdon. | 2. Nicholas Gilman. |
| <i>John Pickering.</i> | <i>Benjamin West.</i> |

MASSACHUSETTS.

- | | |
|----------------------|----------------------|
| <i>Francis Dana.</i> | 3. Nathaniel Gorham. |
| Elbridge Gerry. | 4. Rufus King. |
| Caleb Strong. | |

RHODE ISLAND (no appointment).

CONNECTICUT.

- | | |
|------------------------|-------------------|
| 5. William S. Johnson. | 6. Roger Sherman. |
| Oliver Ellsworth. | |

NEW YORK.

- | | |
|---------------|------------------------|
| Robert Yates. | 7. Alexander Hamilton. |
| John Lansing. | |

NEW JERSEY.

- | | |
|------------------------|------------------------|
| 8. William Livingston. | 10. William Patterson. |
| 9. David Brearly. | <i>John Neilson.</i> |
| William C. Houston. | <i>Abraham Clarke.</i> |
| 11. Jonathan Dayton. | |

PENNSYLVANIA.

- | | |
|------------------------|------------------------|
| 12. Benjamin Franklin. | 16. Thomas Fitzsimons. |
| 13. Thomas Mifflin. | 17. Jared Ingersoll. |
| 14. Robert Morris. | 18. James Wilson. |
| 15. George Clymer. | 19. Gouverneur Morris. |

DELAWARE.

- | | |
|--------------------------|----------------------|
| 20. George Read. | 22. John Dickinson. |
| 21. Gunning Bedford, Jr. | 23. Richard Bassett. |
| 24. Jacob Broom. | |

MARYLAND.

- | | |
|--------------------------------------|--|
| 25. James McHenry. | 27. Daniel Carroll. |
| 26. Daniel of St. Thomas
Jenifer. | John Francis Mercer.
Luther Martin. |

VIRGINIA.

- | | |
|----------------------------------|---|
| 28. George Washington. | George Mason. |
| <i>Patrick Henry</i> (declined). | George Wythe. |
| Edmund Randolph. | James McClurg (in the
room of P. Henry). |
| 29. John Blair. | |
| 30. James Madison, Jr. | |

NORTH CAROLINA.

- | | |
|--|--|
| <i>Richard Caswell</i> (resigned). | <i>Willie Jones</i> (declined). |
| Alexander Martin. | 32. Richard D. Spaight. |
| William R. Davie. | 33. Hugh Williamson (in
the room of W.
Jones). |
| 31. William Blount (in the
room of R. Caswell). | |

SOUTH CAROLINA.

- | | |
|--------------------------|-----------------------|
| 34. John Rutledge. | 36. Charles Pinckney. |
| 35. Charles C. Pinckney. | 37. Pierce Butler. |

GEORGIA.

- | | |
|----------------------|-----------------------------|
| 38. William Few. | <i>George Walton.</i> |
| 39. Abraham Baldwin. | William Houston. |
| William Pierce. | <i>Nathaniel Pendleton.</i> |

APPENDIX III

CONSTITUTION OF THE UNITED STATES.

PREAMBLE.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I. LEGISLATIVE DEPARTMENT.

SECTION 1. CONGRESS IN GENERAL.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 2. HOUSE OF REPRESENTATIVES.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and

within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECTION 3. SENATE.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation.

When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4. BOTH HOUSES.

1. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION 5. THE HOUSES SEPARATELY.

1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6. PRIVILEGES AND DISABILITIES OF MEMBERS.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury

of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time, and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECTION 7. MODE OF PASSING LAWS.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8. POWERS GRANTED TO CONGRESS.

The Congress shall have power:

1. To lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;
2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;
4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
7. To establish post offices and post roads;
8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
9. To constitute tribunals inferior to the Supreme Court;
10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
13. To provide and maintain a navy;
14. To make rules for the government and regulation of the land and naval forces;
15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrection and repel invasions;
16. To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;
17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over

all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SECTION 9. POWERS DENIED TO THE UNITED STATES.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SECTION 10. POWERS DENIED TO THE STATES.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts;

pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II. EXECUTIVE DEPARTMENT.

SECTION 1. PRESIDENT AND VICE PRESIDENT.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. (The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Rep-

representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President. [*Superseded by Amendment XII.*]

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect and defend the Constitution of the United States.”

SECTION 2. POWERS OF THE PRESIDENT.

1. The President shall be Commander in Chief of the army and navy

of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION 3. DUTIES OF THE PRESIDENT.

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION 4. IMPEACHMENT.

The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III. JUDICIAL DEPARTMENT.

SECTION 1. UNITED STATES COURTS.

The judicial power of the United States, shall be vested in one

Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECTION 2. JURISDICTION OF THE UNITED STATES COURTS.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3. TREASON.

1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV. THE STATES AND THE FEDERAL GOVERNMENT.

SECTION 1. STATE RECORDS.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. PRIVILEGES OF CITIZENS, ETC.

1. The citizen of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION 3. NEW STATES AND TERRITORIES.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION 4. GUARANTEE TO THE STATES.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V. POWER OF AMENDMENT.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress ; provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI. PUBLIC DEBT, SUPREMACY OF THE
CONSTITUTION, OATH OF OFFICE, RELIGIOUS TEST.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof ; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII. RATIFICATION OF THE CONSTITUTION.

The ratification of the convention of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall

have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of

the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have authority to enforce this article by appropriate legislation.

ARTICLE XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty,

or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

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NEW CAPITOL BUILDING

GOVERNMENT: ITS ORIGIN, GROWTH AND FORM IN THE UNITED STATES

THE GOVERNMENT
OF MISSOURI

JOSEPH C. LILLY

CHICAGO

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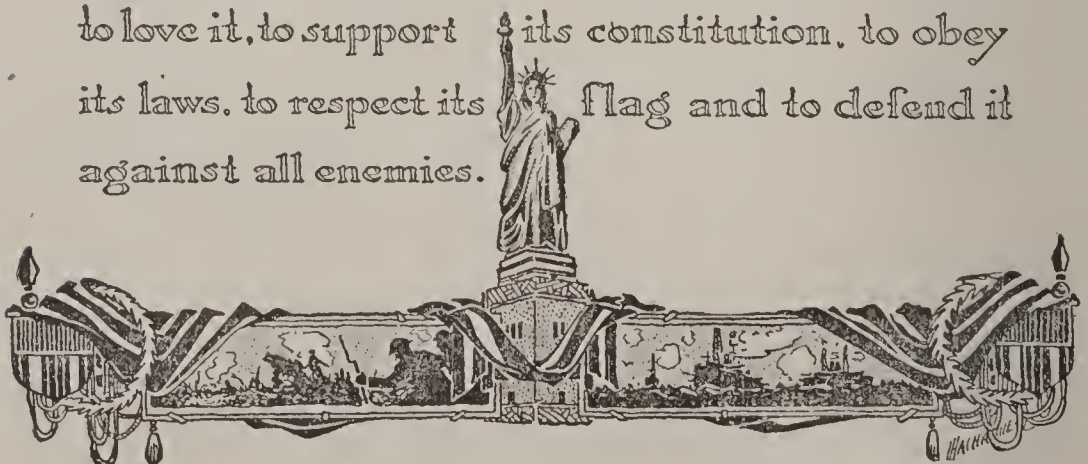
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THE AMERICAN'S CREED

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign Nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes.

I therefore believe it is my duty to my country to love it, to support its constitution, to obey its laws, to respect its flag and to defend it against all enemies.



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THE GOVERNMENT OF MISSOURI

CHAPTER I

INTRODUCTION

First and Second Constitutions of Missouri. — The State of Missouri was originally a part of the Louisiana Purchase made by President Jefferson from Napoleon in 1803 for the small sum of \$15,000,000. The area of this purchase was 827,987 square miles, making the cost less than three cents an acre.

Missouri was admitted into the Union August 10, 1821. It has had three Constitutions. The first Constitution was adopted by a convention in 1820. It permitted slavery and barred free negroes from the State. The State Legislature agreed, however, that this clause barring free negroes should not be enforced; then President Monroe signed the proclamation admitting Missouri to the Union.

In 1865 a new constitutional convention met and drafted a Constitution which abolished slavery. This Constitution contained what was called a test oath which forbade any one to vote, hold office, teach school, preach the gospel, or practice law who had aided or was in sympathy with the rebellion. The Supreme Court of the United States decided that this oath was unconstitutional.

Present Constitution. — The present Constitution was adopted in 1875. The formation of another Constitution is now being agitated by some of the leading citizens and newspapers of the State. Some claim that the State cannot make further progress until the present Constitution is revised, or until a new one is drafted and ratified by the people.

Resemblances and Differences between the Federal Constitution and the State Constitution. — The State Constitution is analogous to the Federal Constitution in many respects. The Federal Constitution has its prohibitions and limitations, as has the State Constitution. As the Federal Constitution is the fundamental law of the United States, so the State Constitution is the fundamental law of the State.

Certain powers which belong to the United States Government cannot be exercised by any of the states, such as the coinage of money, granting of copyrights and patent rights, declaration of war,¹ etc. On the

¹ The power to declare war is vested in the Congress of the United States. It is the custom, however, for Congress to wait for the President to recommend war. In the case of the war between the United States and Germany, President Wilson appeared before the Congress of the United States, explained the relationship existing between these two countries, and urged Congress to declare war. He said in part:

“With a profound sense of the solemn and even tragical character of the step I am taking and of the grave responsibilities which it involves, but in unhesitating obedience to what I deem my constitutional duty, I advise that the Congress declare the recent course of the Imperial German Government to be in fact nothing less than war against the Government and people of the United States; that it formally accept the status of belligerent which has thus been thrust upon it, and that it take immediate steps not only to put the country in a more thorough state of defense, but also to exert all its power and employ all its resources to bring the Government of the German Empire to terms and end the war.

“What this will involve is clear. It will involve the utmost practicable coöperation in counsel and action with the Governments now at war with

other hand, certain powers are retained by the states and cannot be exercised by the Federal Government, such as the promotion of education, local taxation, criminal laws, etc.

The Tenth Amendment to the Constitution of the United States says that the powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively,

Germany, and as incident to that the extension to those Governments of the most liberal financial credits in order that our resources may so far as possible be added to theirs.

“It will involve the organization and mobilization of all the material resources of the country to supply the materials of war and serve the incidental needs of the Nation in the most abundant and yet the most economical and efficient way possible.

“It will involve the immediate full equipment of the navy in all respects, but particularly in supplying it with the best means of dealing with the enemy’s submarines.

“It will involve the immediate addition to the armed forces of the United States already provided for by law in case of war, of at least 5,000,000 men, who should, in my opinion, be chosen upon the principle of universal liability to service, and also the authorization of subsequent additional increments of equal force so soon as they may be needed and can be handled in training.

“It will involve, also, of course, the granting of adequate credits to the Government, sustained, I hope, so far as they can equitably be sustained by the present generation, by well-conceived taxation. I say sustained so far as may be equitable by taxation because it seems to me that it would be most unwise to base the credits which will now be necessary entirely on money borrowed.”

The declaration of war passed by Congress follows:

“Whereas the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America; therefore be it

“Resolved, By the Senate and House of Representatives of the United States of America, in Congress assembled, that the state of war between the United States and the Imperial German Government, which has thus been thrust upon the United States, is hereby formally declared; and that the President be, and he is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.”

or to the people. This amendment to the Constitution of the United States clearly defines the powers and limitations of the State and of the Nation.

In the national government the executive power is vested in the President of the United States of America. In the state government the executive department consists of a Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Schools. But the supreme executive power is vested in a chief magistrate, who is styled "The Governor of the State of Missouri."

The general purpose of the Federal Constitution is indicated in the preamble,—“We, the people of the United States, in order to form a more perfect Union” (that is, more perfect than it was possible to have under the Articles of Confederation). “To promote the general welfare, to establish justice, to insure domestic tranquillity, and to provide for the common defense” are other purposes of the Constitution.

Likewise the purpose of the Constitution of the State of Missouri is contained in its preamble, which is as follows: “We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do, for the better government of the State, establish this Constitution.”

Constitution, How Framed and Adopted. — The present Constitution of Missouri was framed by a convention of delegates, chosen for that purpose by the people. Then it was submitted to the people at the polls, who adopted it October 30, 1875. This is the simplest way of making a state constitution.

How the Constitution May Be Amended. — The Constitution prescribes two ways by which it can be amended. First, the Legislature proposes an amendment to be submitted to the voters at the next general election, and if a majority of those voting on the proposition favor it, it becomes a part of the Constitution. The second way is explained in Article XV, Section III, of the Constitution. The Legislature proposes to call a convention for the purpose of revising or amending the Constitution. This proposition is submitted to a vote of the people of the State, and if the majority vote for it, the Governor fixes a time for holding the election. He issues writs of election to the sheriffs of the different counties of the State, calling an election. Each senatorial district elects two delegates, making a total in the State of sixty-eight, *i.e.*, two for each State Senator. These delegates meet in convention and proceed to revise or amend the Constitution of the State. This revised or amended Constitution is again submitted to the voters of the State for their ratification or rejection. If they ratify it, it becomes the fundamental law of the State, or the Constitution.

QUESTIONS

1. Missouri was originally a part of what purchase?
2. When was it admitted into the Union?
3. How many Constitutions has it had? When was the first one adopted? The second one?
4. When was the present Constitution adopted?
5. The Governor of the State corresponds to what officer in the Federal Government?
6. The State Senate corresponds to what part of our National Government?

7. Name three powers that belong to the Federal Government and that cannot be exercised by the State Government.
8. Name three powers that belong to the State Government.
9. Tell two ways of making a State Constitution.

Read Article II of the State Constitution and then answer the following questions :

10. In whom is all political power vested?
11. What is the origin of all just government?
12. What is the purpose of government?
13. What are the natural rights of all persons?
14. What is said about religious freedom and liberty of conscience?
15. Can the General Assembly aid any church with money drawn from the public treasury?
16. What is meant by "treason"?
17. When can an individual be imprisoned for debt?
18. What is meant by an "ex post facto law"?
19. Are all offenses bailable?
20. Enumerate some of the rights of an accused in criminal prosecutions.
21. When shall a jury consist of less than twelve men?
22. Is slavery prohibited in the State of Missouri?
23. What is meant by "right to bear arms"?
24. According to the Constitution of Missouri, can an individual be made to attend church or support the same?

CHAPTER II

THE PUBLIC SCHOOL

“THE intelligence of the people is the security of the nation.” Hence the necessity of educating all the people. At first the minister of the church was the teacher of the children of the community; then the private tutor, the subscription school, and the seminary or college carried on their education. Finally, the public school system was organized, and laws were made providing for its maintenance — laws regulating the attendance, the revenues, and the payment of teachers. This educational agency, the public school system, is one of the grandest conceptions of the human mind, and is doing more than any other agency to advance the efficiency of the race. The primary object in maintaining a public school system in this country is to develop a capable and intelligent citizenship. As means to this end, the State provides and supports common schools, town or city schools, consolidated schools, public high schools, State normal schools, and the State University.

Common School District. — A common school district is one of the smallest divisions of the county. Sometimes a school district may be located in two or more counties. Public school must be maintained in each district for at least eight months of the year, provided forty cents on the one hundred dollars’

assessed valuation, together with the public funds, shall be sufficient to maintain it. Weak districts may receive State aid, but they must levy sixty-five cents on the one hundred dollars' valuation and also make an average daily attendance of fifteen pupils. Each district shall contain at least twenty pupils of school age. A colored school may be organized if there are fifteen such pupils in the district. The Constitution of Missouri requires separate schools for the two races. (For information in regard to how to obtain State aid, read Section 10846 of the School Law.)

The common school district is under the management of a Board of Directors composed of three members elected for a term of three years. In newly created districts one Director is elected for three years, one for two years and one for one year. Members of the Board must be citizens of the United States, residents, taxpayers, and qualified voters of the district. They must have paid a state and a county tax within one year preceding their election to the Board.

Powers of the Annual School Meeting. — The annual meeting of each school district is held on the first Tuesday in April of each year at the district school-house or some other place designated by the Board of Directors, commencing at two o'clock in the afternoon. The voters meet to transact certain public business and have power by a majority of the votes cast :

First. To organize, by the election of a chairman and a secretary. The secretary shall keep a record of the proceedings of the meeting and, when signed by the chairman, deliver them to the clerk of the district, who shall enter them on the records of the district.

Second. To choose by ballot one Director, who shall hold his office for the term of three years, or until his successor is elected and qualified.

Third. To fill any vacancies that may exist by death, resignation, or refusal to serve; the person thus elected shall hold his office for the unexpired term.

Fourth. To determine by ballot the length of school term in excess of eight months, to determine the rate of taxation if in excess of forty cents on the one hundred dollars' assessed valuation.

Fifth. To decide in favor of, or against, any changes in the boundary lines of the district.

Sixth. To determine by majority vote whether the schoolhouse shall be used for any other purpose than for school during the year.

Seventh. To direct the sale of any property belonging to the district, but no longer required for the use thereof, and what shall be done with the proceeds.

Eighth. To designate their choice, by ballot, for the office of County Superintendent of Public Schools.

Ninth. To determine by ballot the rate to be levied upon the one hundred dollars' assessed valuation necessary to purchase a site, erect a schoolhouse, and furnish the same.

Tenth. To determine in districts newly formed the location of the schoolhouse, etc.

Eleventh. To change the location of schoolhouse site if the same for any cause is deemed necessary. The majority of taxpayers can vote to move the schoolhouse towards the center of the district, but a two-thirds vote is necessary to move the schoolhouse away

from the center of the district. These voters must be taxpayers.

NOTE TO TEACHER. Organize the class into an annual meeting, elect Chairman and Secretary, and legislate according to the various powers of the annual meeting. Spend several days on this procedure and you will find it very stimulating.

Town and City School Districts. — A town school district is one which contains a town, or village, or a city of the fourth class. A city school district contains a city of the first, second, or third class. Each of these school districts is managed by a Board of Education composed of six members. The management of the St. Louis school district is vested in a Board of Education composed of twelve members.

Consolidated School District. — Three or more common school districts may unite to form a consolidated school district. Any village containing less than 200 children of school age may be part of this district. The consolidated school district, having more money than any of the common school districts of which it is composed, can have a better elementary school. It can and does in most cases maintain a high school. Under certain conditions, the district may provide free transportation to pupils. (New Consolidated Law, Section 4.) The management of a consolidated school district is under a Board of Education composed of six members elected for a term of three years. (Section 10866, School Law.)

High School. — Public high schools are maintained and supported as parts of town and city school systems. Originally it was the primary purpose of public high schools to prepare boys and girls to do the work of the

higher institutions of learning; hence Latin, Greek, and mathematics were the principal subjects taught. Later, the students were taught subjects which they needed to know in the various vocations for which they were preparing. Separate high schools have been founded—technical, commercial, and agricultural. Where separate high schools do not exist, the newer subjects are taught in the ordinary high schools. The public high school has been styled the people's college.

The State Superintendent of Public Schools shall have authority to classify the public schools in the state into first, second, and third classes, and shall prescribe minimum courses of study for each class. A high school of the first class must maintain a four years' course of study for a term of at least nine months in the year, and employ at least three approved teachers in high school work. A three years' course, for nine months, with two approved teachers, shall constitute a second-class school. A third-class high school must maintain at least eight months' school in the year, employ at least one approved teacher in high school work, and maintain a two years' course of study. (Read Section 10923 and Section 10924, School Law.) In 1918 Missouri had 545 approved high schools: 258 high schools of the first class, 95 high schools of the second class, and 192 high schools of the third class.

The Normal Schools. — There are five State normal schools in Missouri, located at Kirksville, Warrensburg, Cape Girardeau, Springfield, and Maryville. The purpose of these schools is to train teachers for the elementary and high schools. Each of these schools is under the management of a Board of Regents, the

members of which are appointed by the Governor and confirmed by the Senate. The State Superintendent is an ex-officio member of each of these boards.

Lincoln Institute is located at Jefferson City and is maintained by the State for the purpose of training colored teachers. A diploma from Lincoln Institute authorizes the holder to teach in any colored school in the State.

Appropriations are made biennially by the State Legislature for the support of all these schools.

These institutions offer or parallel all the studies given by the best of the standard colleges and teachers' colleges. They confer an elementary State certificate based on thirty semester hours covered in one year above high school; also diplomas for two years, three years, and four years above high school — all culminating in the degrees Bachelor of Science in Education or Bachelor of Arts in Education, and leading to graduate courses in universities. These degrees obtained by the senior classes qualify the holders to teach in all kinds and grades of public schools.

All of these schools have very large enrollments. The enrollment of each of the older schools—Warrensburg, Cape Girardeau, and Kirksville — exceeds two thousand. The Maryville and Springfield Normal Schools were established by law in 1905, and from the first year the attendance of each one has been growing.

The State normal school at Kirksville was organized January 1, 1871. This institution has a library of thirty thousand volumes, and laboratories equal to those of the best colleges in the country. Its agricultural department has a State farm of twenty-five

acres, which enables students to get a thoroughly practical agricultural education.

This institution has a demonstration rural school on its campus, illustrating how a rural school should be conducted. The children who attend it are transported to and from their farm homes.

The State University. — The University of Missouri, located at Columbia, is the State institution for higher education. It includes a College of Arts and Science, a College of Agriculture, Colleges of Education, Law, Medicine, Engineering, and Journalism. There is also a School of Mines at Rolla. The University is governed by a Board of Curators consisting of nine members appointed by the Governor. A diploma from the College of Education is a license or life certificate, enabling one to teach anywhere in the State.

The University is supported by State appropriations and interest on the Seminary Fund, Collateral Inheritance Tax, etc. (Article XI, Section 5, State Constitution.)

School Revenues. — The school revenues of the State are derived from various sources: from direct taxation which the people vote, and from the interest on the permanent school funds of the State. Besides, the General Assembly appropriates one third of all the State's revenues for the support of the public schools.

Township School Fund. — The Federal and State laws required that section sixteen of every congressional township be sold, or other lands in lieu thereof, and that the money be added to a Township School Fund. (School Law, Section 10812.) The County Courts of the various counties of the state have the

care and management of these funds. (School Law, Section 10813.)

County School Funds. — The County School Funds are derived from the sale of estrays, the proceeds of all penalties and forfeitures and all fines collected in the several counties for violation of the penal or military laws of the State, and all moneys paid by persons for exemption from military duty. The management of these funds is vested in the several County Courts of this State, whose duty it is to invest them at the highest rate of interest that can be obtained (not exceeding 8 per cent nor less than 4 per cent per annum) on all unencumbered real estate security. This real estate shall be worth at all times at least double the sum loaned. The income of these funds is collected annually and appropriated for establishing and maintaining free public schools in the several counties of the State. (Read Article XI, Section 10, of the State Constitution.)

Special District Funds. — By an act of Congress certain lands held in common by some of the earlier French towns were given to the inhabitants for the support of schools. Later the General Assembly sold these lands and turned over the proceeds to the public school districts of the towns. St. Louis school district received a large part of this money. Fines, forfeitures, and special gifts also contribute to these special district funds, making the amount derived from all sources about \$1,650,000.

The Seminary Fund. — The proceeds of this fund are used for the support of the State University and the School of Mines and Metallurgy at Rolla. In

1818 Congress gave to the State seventy-two sections of unentered land. This land was sold and the proceeds used to provide an endowment for the University. To promote and aid the College of Agriculture of the University, Congress gave in 1862 other lands in the State which were sold and added to the Seminary Fund. This fund has been increased from time to time until it amounts to \$1,250,000.

The Public School Fund. — This fund was originated by an act of Congress in 1812. Congress at other times gave to Missouri swamp lands, which were to be sold and the proceeds thereof turned into the State Treasury. Certain fines and forfeitures are also added to this fund. The amount of this fund is more than \$3,000,000. Only the interest can be used for the support of the public schools.

The Public School Fund and the Seminary Fund are managed by State officials. The State Auditor issues to the State Board of Education "certificates of indebtedness," covering the amount of those funds. These certificates simply represent a debt which the State owes these funds. The State agrees to raise by taxation the interest that those funds bear. Since 1887 the State Legislature has appropriated one third of the revenues of the State to the public schools. These appropriations, together with the interest of the State Public School Fund, amount to about \$1,250,000. The State Superintendent of Public Schools apportions this money among the various counties of the State according to Section 10822 of the School Law.

School Holidays. — In Missouri the following days, if they come on school days, are school holidays: Thanks-

giving, December twenty-fifth, February twenty-second, and July fourth. The school month consists of four weeks; the school day, of six hours of actual work. The school year begins on July first, and ends on June 30th. (School Law, Section 10800.)

Certification of Teachers. — The law requires the County Superintendents to hold three public examinations during the year—in March, June, and August—for the purpose of licensing teachers. The questions are furnished by the State Department of Education. The County Superintendents grade the papers of teachers applying for second and third grade certificates. The State Department grades the papers of all applicants for first grade certificates. To secure a third grade certificate, the applicant must make an average of 80 per cent in all the common branches. An average of 85 per cent in all the common branches and in algebra and literature entitles the applicant to a second grade certificate. An applicant for a first grade certificate must be examined in the second and third grade subjects, and also in ancient, modern, or English history, and in one branch of science, and must maintain an average grade of 90 per cent in all the subjects. On and after September 1, 1918, all applicants for first or second grade certificates must have completed a four-year high school course or its equivalent. This law does not apply to experienced teachers. (School Law, Section 10941.)

A third grade certificate may be granted to any one person for but four consecutive years, and then he must take another examination to test his efficiency; a second grade certificate may be renewed with ex-

amination once ; a first grade certificate, an unlimited number of times. (School Law, Section 10942.)

County Textbook Commission. — This Commission is composed of three members : the County Superintendent of Schools, who is president of the Commission by virtue of his office ; one member appointed by the State Board of Education, and one appointed by the County Court. This Commission has power to select textbooks and to contract with book publishing companies for a period of five years, except in cities having more than one thousand children of school age and in towns having high schools affiliated with the State University. The Boards of Directors select textbooks for use in cities and towns not under the jurisdiction of the County Textbook Commission.

Teachers' Training Course Law. — In 1913 the State Legislature enacted a law designed to increase the facilities for training teachers for the elementary and rural public schools. This law provides teacher-training courses in the eleventh and twelfth grades of such first-class high schools as the State Superintendent of Public Schools may designate. The State Superintendent also prescribes the course of instruction, the rules and regulations under which such instruction shall be given, to whom and by whom it shall be given. Pupils graduating from the teacher-training course shall receive a license to teach in any elementary or rural school in the State for a period of two years. After thirty-two successive weeks of experience and one term's work in a State normal school, in the State University, or any standard college, the person holding a teacher-training certificate shall receive a first grade county certificate.

A very high standard of qualifications is required of those who aspire to become teachers in the teacher-training courses. This work is under the close supervision of an expert appointed by the State Superintendent of Public Schools. (School Law, pages 96-99.)

QUESTIONS AND SUGGESTIONS

Read Article XI of the State Constitution.

1. By whom are the free public schools established, and why?
2. What is the school age?
3. What provision does the Constitution make for colored children?
4. Who are the members of the State Board of Education?
5. When is held the annual meeting of each common school district? Where?
6. Is a majority vote necessary to carry any proposition considered at this meeting?
7. Must the Secretary of the District Board of Directors be a member of the Board?
8. If a vacancy occurs in the Board, how is it filled?
9. What reports does the Secretary make? To whom are these reports made?
10. How much in excess of forty cents on the one hundred dollars' assessed valuation can a common school district legally vote?
11. When and by whom are the members of the Board of Directors of the common school district elected? State their qualifications. (Section 10867, School Law.)
12. May women be elected as members of School Boards?
13. Discuss the organization of the Board of Education of the consolidated school district and the duties of its officers. (Section 10868, School Law.)
14. By whom is the State University managed?
15. Name the school funds and tell how they are disbursed. (Article XI, Section 2.)

Pupils should consult the School Law before attempting to answer

questions 16 to 19. Read also Article XI, Section 10, of the State Constitution.

16. On what kind of security are the Township School Funds loaned?

17. Who apportions the interests on these funds?

18. Upon what is the apportionment based?

19. What was the total amount of these Township School Funds of the State for the year 1917?

20. From what sources are the County School Funds derived? Who collects, preserves, and invests these funds? How are they invested?

21. What is the total amount of the County School Funds? Are these funds increasing annually?

22. What are estrays?

23. What are forfeitures?

24. Distinguish between penal and military laws.

25. Does the State make any provision for the support of religious or sectarian schools?

CHAPTER III

CITIES, TOWNS, AND VILLAGES

WITH the exception of St. Louis, every city, town, and village is an integral part of some county of the State, and its inhabitants are subject to the jurisdiction of county officials. The citizens living in the cities, towns, and villages pay State and county taxes and participate in the election of county officers.

Source of Power. — The State Constitution says: “The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town, or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.” (Article IX, Section 7, State Constitution.) That is, there cannot be more than four classes of cities, and the powers of each class are defined by general laws so that all cities in the same class possess the same powers.

The General Assembly delegates powers and prescribes the functions of the city governments, and it is

left to the cities to pass ordinances promoting the general welfare of its inhabitants, such as the care of streets, sidewalks, the building of parks, collecting taxes, health regulations, providing water and lighting systems, hospitals, public libraries, and many other things. City government, like all others, is divided into three departments, legislative, executive, and judicial.

How to Incorporate Cities, Towns, and Villages. — Whenever a city or town wishes to incorporate, a majority of the taxpayers sign a petition and present it to the County Court. The County Court then enters the petition on its records, and makes an order declaring such a city or town incorporated and designating the class to which it belongs. The Court also fixes the boundaries and names the first set of officers of such city or town, who serve until the next regular election.

The County Court has the power to declare the incorporation of a village on a petition signed by two thirds of the taxpayers.

The legislative, executive, and judicial powers of a village government are vested in a Board of Trustees, five in number. The first board is appointed by the County Court. The board passes ordinances providing for police protection, and for levying and collecting taxes. The chairman of the board acts as police judge. The board has the power to appoint a Treasurer, an Assessor, a Collector, and a Constable.

Classes of Cities. — The cities of the State are divided into four classes, classification being made on the basis of population. All cities having a popula-

tion of one hundred thousand or more are in the first class ; all cities having more than thirty thousand and less than one hundred thousand are in the second class ; all cities having more than three thousand and less than thirty thousand are in the third class ; all cities having more than five hundred and less than three thousand are in the fourth class.

The General Assembly in 1909 passed a law authorizing cities with a population of seventy thousand to become cities of the first class. All towns of less than five hundred inhabitants, and not now incorporated, are declared to be villages.

Cities of the First Class. — The legislative department in cities of the first class is called the Municipal Assembly. It consists of two branches — the Council, composed of thirteen members elected from the city at large for four years, and the House of Delegates, composed of one member elected from each ward for a term of two years.

In all cities organized under Article II, Chapter 84, Laws of 1909, the legislative authority is vested in a Council of five members instead of thirteen. In all cities of this class the voters are required to register by wards a few weeks before the election ; any person whose name is not found on the registration list at election time cannot vote. This is done to prevent fraudulent voting.

Cities of the Second Class. — The legislative power is vested in the Common Council. This body is composed of two Aldermen from each ward, one being elected by the voters of the city at large, and the other by the voters of each ward, for a term of four years.

Cities of the Third Class.—The legislative body is known as the Council. It is composed of two Councilmen from each ward. The number of wards shall not be less than four.

Cities of the Fourth Class.—The legislative power is vested in a Board of Aldermen composed of not less than four members. The number of wards shall not be less than two.

Forms of Government.—There are two forms of city government in Missouri, the federal form and the commission form. Most of the cities are under the federal form of government. Under this form, the people elect certain officials regardless of the size of the city; namely, the Mayor, City Assessor, Collector, Treasurer, Attorney, and Chief of Police. There are other officers appointed by the Mayor, with the approval of the Council.

Under the commission plan, the commission, which is composed of three or five members, makes and enforces the laws of the city. One member of this commission is called the Mayor, one is Commissioner of Health and Sanitation, one is Commissioner of Streets and Public Improvements, one is Commissioner of Public Property and Public Utilities. Assistants and employees are appointed by the commission or by the head of a department with the approval of the commission. Each member of the commission is elected by the voters of the city and not by wards. Cities of the second and third classes may adopt the commission form of government in Missouri.

Executive Power.—The chief executive officer is the Mayor. He appoints all minor officers, and may,

with the Board of Aldermen, remove from office any officer, for violation of his oath. The Board of Aldermen passes all ordinances of the city with the approval of the Mayor.

The Marshal preserves order on the streets and may arrest any person for violating the ordinances of the city.

Judicial Power. — The Mayor appoints one or two police judges who interpret the law, and who may commit to jail or fine any person brought before them by the Marshal, and convicted of crime. Their duties are the same in all cities.

Kansas City. — Kansas City was organized with a new charter in 1889. There is a Common Council consisting of two houses, the Upper House and the Lower House. The city at large elects one member from each ward to the Upper House. One member from each ward is elected by the voters thereof to the Lower House. All ordinances must be passed by a majority of each House and be approved by the Mayor. There is a Board of Police Commissioners, composed of the Mayor and two commissioners, appointed by the Governor. This Board appoints policemen and has entire control of them.

City of St. Louis. — In 1914 the people elected thirteen citizens to frame a new charter, which was later adopted at a special election. It provides for the election of a Mayor and a Comptroller, each for a term of four years. The legislative power is vested in a Board of Aldermen, consisting of a President and one Alderman for each ward, elected by the city at large, for a term of four years. One half of the aldermen are

elected every two years. The Mayor appoints the Board of Public Service, which is composed of a President and four Directors. This Board has charge of the construction and repair of streets, sidewalks, parks, sewers, etc.

The Police Department is under the control of a board consisting of the Mayor and four Commissioners appointed by the Governor.

Elections are under the control of Commissioners appointed by the Governor.

There is also an Excise Commissioner appointed by the Governor. He has power to grant and revoke dram shop licenses.

QUESTIONS AND SUGGESTIONS

1. To what class of cities does Sedalia belong? Joplin? Webb City? Springfield? St. Joseph? Hannibal? Moberly?

2. How may a city of the third class be changed to one of the second class?

3. Debate. Resolved: That the Commission Form of City Government is Better than the Federal Form.

NOTE TO TEACHER. Organize the class into a city of the third class, and elect the officers as is done in cities of this class. Then pass an ordinance regulating the speed of automobiles. Let some citizen violate this ordinance; have the Chief of Police arrest him, and bring him before the Police Judge for trial. Proceed with the trial according to law. The accused may have a jury of six men to pass on his guilt or innocence. In like manner dramatize the governments of cities of the first and second class.

CHAPTER IV

THE CONGRESSIONAL TOWNSHIP

A CONGRESSIONAL township is a tract of land six miles square. It contains thirty-six square miles and is bounded by range lines on the east and west and congressional township lines on the north and south. Congress had these surveys made, hence the name congressional township. The object of these townships is to locate lands, so that they may be taxed or transferred from one party to another. The township is in no sense a political division. It may be in two or more counties, or even in two or more States. It is located by range and township numbers.

Public Lands. — Beginning with the Louisiana Purchase in 1803, the United States government has acquired large areas of public land. Spain ceded Florida to the United States in 1819. By exploration, discovery, and by a treaty with Great Britain, what is called the Oregon country was acquired in 1846. Mexico ceded in 1848 a vast tract of land, embracing what is now New Mexico, Arizona, Nevada, and a part of California. The Pan Handle country became a part of the United States as a cession from Texas in 1850. In 1853 we added to our possessions what is known as the Gadsden Purchase. In 1867 Alaska was purchased from Russia.

Since the Constitution of the United States delegates

to Congress the power to dispose of the public lands, it is necessary that some system be adopted by Congress for locating these public lands. The National Government has disposed of many acres to individuals, states, towns, corporations, and educational and benevolent institutions. In the western country there are still large areas of land belonging to the Government.

Land Surveys. — Before these lands could be transferred to others it was necessary that they should be surveyed. Hence Congress passed a law in 1785 that the land of the new states and territories should be surveyed into townships, six miles square. This is known as the *Triangular System*. According to this system the lands are marked off into ranges, townships, sections, and parts of sections. When the United States Government sent surveyors into the territory of Missouri to survey the land for the early settlers, the first thing they did was to lay off two main lines from which to reckon. One was called the base line and extends due east and west across Arkansas just south of Little Rock. The other was called the principal meridian and runs north and south 36 miles west of St. Louis, cutting the base line at right angles.

Townships and Ranges. — Townships are not named, but numbered north from the base line; the first township north of the base line is number one, the second, number two. (Figure 1.) Each congressional township is divided into 36 sections. (Figure 2.)

Ranges. — A series of townships running north or south of the base line constitutes what is called a range. The range is named by its number east or west of the principal meridian; as range 1, east; range 1, west.

(See Figure 1.) A range is six miles wide and indefinite in length.

Sections. — A section is one of the square miles of a congressional township and contains 640 acres. It is divided into halves, or tracts of 320 acres; quarters, or 160 acres; one half of a quarter, or 80 acres; and one fourth of a quarter, or 40 acres. Observe that the sections are numbered from east to west and from west

	Township 2	Township 2	
	Range 1 west	Meridian	Range 1 east
	Township 1	Township 1	
	Base	Line	

FIGURE 1

to east, beginning in the northeast corner of the township. (See Figure 2.)

Base Lines. — There are a great many of these lines in the United States. The one extending through Arkansas from east to west is the one from which townships in Missouri are numbered. But in Kansas there is another base line from which townships are numbered. This line extends across the State from east to west near the central part of the State. There is another base line in the Pan Handle; another in Florida; and at various other places in the United States, outside of the original thirteen colonies.

Correction Lines. — Lines running due north and south are not exactly parallel, as they are surveyed according to the compass, and the needle of the compass points to the north magnetic pole of the earth. Hence north and south lines would meet at the north magnetic pole. Starting at the base line, townships

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

FIGURE 2

are made six miles wide, but farther north they would become less than six miles from east to west. To prevent them from becoming too narrow, seven or eight correction lines are run across the State. Starting on the north of each of them, the townships are each made six miles wide again. These correction lines are parallel to the base line and about thirty miles apart.

Figure 3 represents a section of 640 acres, or one mile square. Let us suppose that this figure *A B C D* represents section 10 of township 7 north, range 5 west.

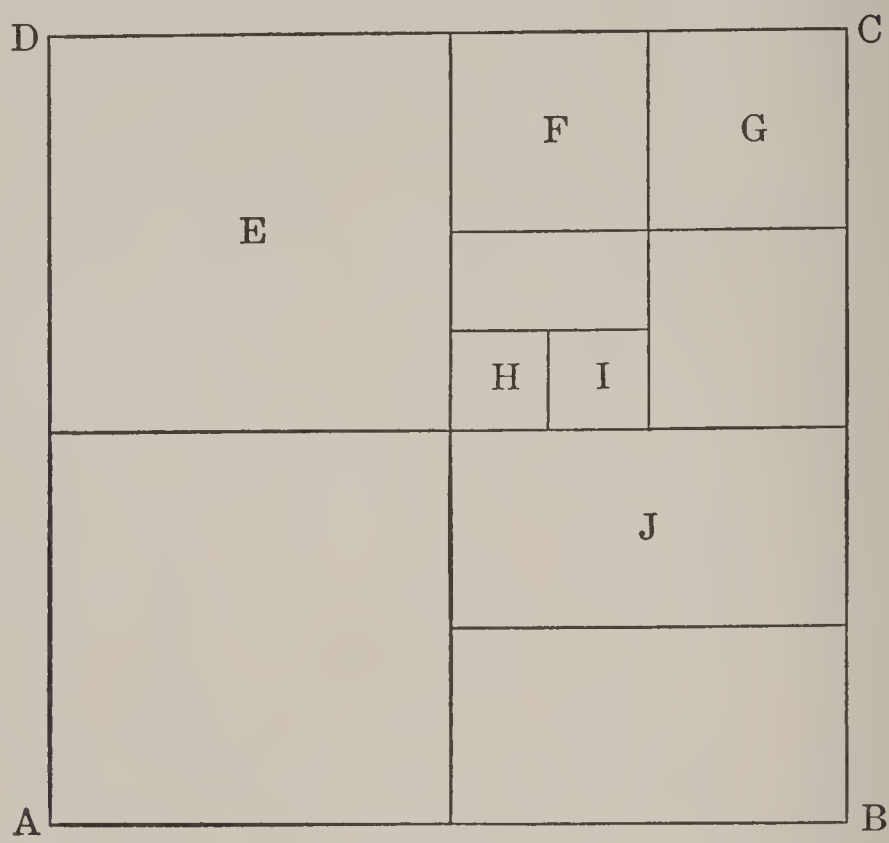


FIGURE 3

E is described as the N.W. $\frac{1}{4}$ of sec. 10, T.7 north, R.5 west, 160 acres.

1. Describe *F*, *I*, and *J*.
2. How many acres in *F*? In *I*? What is *G*?
3. Describe *H*.
4. Consult a surveyor and find out how lands are surveyed, section lines marked, and corners established.
5. How is the location of land described in one of the older states like Massachusetts?
6. If a man built a house on the S.W. $\frac{1}{4}$ of a section, in what direction would his house probably face?
7. Where are the roads usually located? Why does a deed usually call for so many acres "more or less"?

Corners. — Corners are established to designate the townships, sections, and quarter-sections. Stones are used, but mounds of earth are also employed. The law requires the surveyors to use the best means at hand to perpetuate these corners. The records of all these surveys, in the various counties, are kept at the county seat. The county provides books in which the recorder keeps all of this information.

CHAPTER V

THE MUNICIPAL TOWNSHIP

A MUNICIPAL township is one of the political divisions of the county made by the County Court for the purpose of local government. The municipal township is often named for some state or national character, as Washington or Lincoln. The officers of the municipal township are the Justice of the Peace and Constable. These townships are sometimes organized, and in this case they have additional officers, such as Clerk, Collector, Assessor, and Trustees. In Article VI, Section 37, of the State Constitution the number of Justices of the Peace to which each county is entitled is designated. In order to learn how a municipal township may be organized, read Article IX, Section 8, of the State Constitution; also read Section 9 of the same article to learn how township organizations may be discontinued.

Justice of the Peace. — The Justice of the Peace is a judicial officer of the township. He is elected for a term of four years and receives his commission from the County Court. He must be a citizen of the United States, an inhabitant of the State one year, and a resident of the township six months before his election. He must have been an inhabitant of the State two years and of the township twelve months if the township has a population of one hundred thousand.

Constable. — One Constable is elected in each township by the qualified voters for a term of two years. If the township has been divided into judicial districts, then one Constable is elected from each district. He must reside in the township or district in which he is elected. He may serve warrants, writs of attachment, subpœnas, and exercise all other authority conferred upon him by law. His duties are similar to those of the Marshal of the town or to those of the Sheriff of the county. He is an executive officer.

Township Organization. — On petition of one hundred legal voters, the County Court must submit to a vote of the people at the next general election the question of township organization of the county. If a majority of the votes cast at the election favor a change, then on the last Tuesday in March after the general election, officers of the township are selected by popular vote. These officers assess and collect the taxes, make and repair the roads, and look after many other local matters. All regular township elections are held on the last Tuesday in March of alternate years. These elections must conform to the law regulating the election of state and county officers.

Officers. — All officers of a township are elected for a term of two years. They are bound by oath or affirmation to discharge the duties of the office to which they have been elected. An organized township must have the following officers: one Trustee, who is also Treasurer of the township; a Clerk, who is also Assessor; a Collector; one Constable; two members of the Township Board and two Justices of the Peace. Townships having more than two thousand inhabit-

ants elect one additional Justice of the Peace for every two thousand inhabitants.

Board of Directors. — The Board of Directors of a township is composed of the Trustee and the two members elected by the people. This board is to the township what the County Court is to the County. It audits all accounts legally presented against the township and levies all taxes for township, road, and bridge purposes. It determines the legality of each claim and rejects or allows it in whole or in part. Three regular meetings of the Board are held each year at the office of the township Clerk.

Clerk. — The Clerk has charge of the records, books, and papers of the township. He is also Clerk of the Board of Directors and keeps a record of its official acts and proceedings. The Clerk acts as Township Assessor; he makes out and delivers to the County Clerk a detailed assessment of the property of his township.

Collector. — The official duty of the Collector is to collect the taxes of the township. He receives a tax book from the County Clerk and proceeds at once to collect the taxes by calling upon each person at his place of business. The State and county tax collected by him is paid to the County Treasurer, but all other taxes collected are paid to the Township Treasurer.

Trustee. — A Trustee may bring suit in the name of the township for the recovery of penalties and forfeitures given to it by law. It is his duty also to employ counsel to prosecute or defend any suit to which the township is a party. The Trustee is also Treasurer, and as such he must keep a correct account of all

moneys received by him, naming the source of these moneys and their amounts. He can pay money only by order of the township Board of Directors. His books must show the amount on hand belonging to the road fund and that belonging to each school district in the township.

Conclusion. — The township organization plan has never been very popular in the State of Missouri. Only seventeen counties have adopted it.

QUESTIONS

1. What is the difference between a congressional and a municipal township?
2. What is the purpose of each?
3. Draw a map of your county and put in the municipal townships.
4. What is the compensation or salary of the Justice of the Peace? Of the Constable?
5. What is meant by "fees"?
6. If a man owed you \$200, in what court would you bring suit for its recovery?
7. What is the maximum amount that may be sued for in the Justice's Court?
8. What is the difference between a civil case and a criminal case?

CHAPTER VI

THE COUNTY

So far the school, the city, the town, the village, and the township governments have been considered. Each of these is related in some way to county government. There are one hundred and fourteen counties in this state and each one of them is related to the State government in many ways. As the county government is more complex than any of the smaller units, so the State government is more intricate than any of the county governments. There are certain functions, however, belonging to each of these units. The care of the poor and the insane, the building of roads and bridges, and the collection of taxes belong in part to the county governments. The laws of the State are largely administered through county organizations. The county officers enforce criminal law made by the State Legislature, and justice is administered through the local courts. Elections, both State and county, are conducted by county officials. Representatives in the Legislature are elected from the counties. The State Senators are elected from the Senatorial districts composed of several counties. The medium through which the State reaches the individual citizen is the county.

Boundaries. — The General Assembly has fixed and adopted the boundaries of the counties. These

boundaries cannot be changed without the consent of the counties concerned. Certain limitations and restrictions have been prescribed by the State Constitution upon these points. (See Article IX, Sections 3 and 4.)

County Seat. — Each county, like the State, has its capital or county seat where the official business of the county is transacted. Most of the county officers reside at the county seat. The courthouse and jail are located here. In most of the counties the various courts hold their sessions in the courthouse, where the records are kept. All land deeds, titles, and mortgages are also kept here in books prepared for the purpose.

Officers. — The officers are elected at the general election which is held on the first Tuesday after the first Monday in November on even years. The School Superintendent is elected at the school meeting in April, for a period of four years. Some of the officers are elected for two years and some for four years. The officers are as follows: three County Judges, County Clerk, Circuit Clerk, Recorder, Sheriff, Coroner, Assessor, Collector, Treasurer, Prosecuting Attorney, Surveyor, School Superintendent, Probate Judge, Representative, and Public Administrator. All the officers who handle the public money are required by law to give bond.

County Court. — The County Court is composed of three Judges, — one, the Presiding Judge, elected by the county at large for a term of four years, and one elected from each of the two districts for a term of two years. These Judges must be at least twenty-four years of age, citizens of the United States for five years,

and must have lived in the county one year before their election. This Court has charge of all the property belonging to the county and may purchase or sell any property for the county. It audits all claims against the county. It levies all the taxes for county purposes within the limit fixed by the State Constitution. It passes upon applications for new roads and determines the width of the same. It exercises general supervision over the roads of the county. At the May term, the Court apportions all revenues of the county for the following purposes: the expenses for the care of paupers and insane persons; the pay of road overseers; the repair of roads and the building of bridges; the payment of salaries of county officers; the payment of the fees of jurors, election judges, clerks, and witnesses; and the ordinary expenses of the county. This court may also license saloons and billiard tables. For limitations on taxation see Article X, Section 11, of the State Constitution. The County Court appoints the election judges, and the County Clerk, under the direction of the County Court, prints the official ballot of every county election held in his county.

County Clerk. — The County Clerk must be a citizen of the United States and twenty-one years of age, a resident of the State one year and of the county three months. He keeps a record of all the official proceedings of the County Court and affixes thereto the seal of his office. He keeps an account of all moneys received and pays them to the County Treasurer. His term of office is four years.

Circuit Clerk. — The Circuit Clerk keeps a record of all the official proceedings of the Circuit Court of his

county. He makes the docket of the Circuit Court, including all civil cases and all criminal cases. He keeps the seal and other property of his office, administers oaths, and performs many other duties belonging to his office. He serves four years.

Recorder. — The Recorder keeps all deeds, mortgages, conveyances, deeds of trust, bonds, covenants, or other instruments of writing. He keeps all marriage contracts and certificates, all official bonds and commissions required by law to be recorded, and a list of births in the county. The County Court may separate the offices of the Recorder and Circuit Clerk when the number of inhabitants of the county is 10,000 or more. When these two offices are not separated, the Circuit Clerk performs the duties belonging to both. He holds office for four years.

Sheriff. — The Sheriff is authorized by law to preserve the peace of the community and to enforce the observance of the laws. He serves writs, various kinds of papers issued by the Justices of the Peace, and has authority to quell assaults, riots, and insurrections; to arrest villains and criminals and commit them to jail, or require them to keep the peace. In some of the smaller counties the Sheriff is also the Collector of the county. His term of office is four years.

Coroner. — It is the duty of the Coroner to inquire into the cause of any sudden or mysterious death in the county. He makes investigation before a jury of six men with the view of ascertaining whether the person died by some accident or was killed or murdered by another; and if killed or murdered by another, who was the principal and who were the accessories. The

Coroner conducts the examination and signs the report made by the jury. If the Sheriff's office becomes vacant, the Coroner serves in his stead until the vacancy is filled by appointment. He serves for a term of four years.

Assessor. — The Assessor is required by law to make an assessment of all the property in his county between the first day of June and the first day of January of each year. He calls at the residence or place of business of each person and makes a list of the following classes of property: all real estate; all live stock; all farm machinery and implements; all household property; money on hand; money in the bank; solvent notes unsecured by mortgage; solvent notes secured by mortgage; solvent bonds of various kinds; all other property. All property held on the first day of June is subject to taxation for the ensuing year. The Assessor's book containing a list of properties must be turned over to the County Court by the 20th day of January. The Assessor's term of office is four years.

Collector. — The County Collector receives from the County Court through the County Clerk a copy of the Assessor's books with the taxes of each individual taxpayer thereon. Taxes not paid by the first day of January become delinquent from that date and draw interest of one per cent a month until paid. If these taxes are not paid by the first day of October following, the Collector may seize and sell the goods of the person liable for taxes. The Collector is required by law to make a monthly report to the County Clerk of all taxes and licenses received during the preceding month. On the fifteenth day of each month, he pays the same into

the State and County Treasuries. He holds office for a term of four years.

Treasurer. — The Treasurer receives all moneys payable into the County Treasury and pays out the same on warrants drawn by order of the County Court. He keeps a detailed account of all moneys received and paid out and makes an abstract of the warrants drawn upon the Treasury. He makes settlements with the County Court every six months showing the balances of the various funds to be accounted for by him. He serves for a term of four years.

Prosecuting Attorney. — This officer must be a licensed attorney and twenty-one years of age. It is his duty to prosecute all civil and criminal cases where the State or county is concerned and to defend in suits brought against the county. He also prosecutes in all actions for the recovery of debts, fines, and penalties, accruing to the county. When a change of venue is made to another county, he follows the case and represents his county's interests. Whenever the interests of the county are involved, he is required by law to give his legal opinion without fee to Justices of the Peace, to the County Court, and to any judge in civil and criminal matters. The County Court may appoint a County Counselor who shall attend all meetings of that court and give advice and aid in the transaction of the county business, if the number of inhabitants of the county is 100,000 or more. The Prosecuting Attorney's term of office is two years.

Surveyor. — The Surveyor runs lines for new roads ordered by the County Court, lines for the division of lands and town lots, and retraces old lines for the

benefit of interested parties. He keeps a record of the surveys made by him or his deputies. This record contains a complete description of all corners established by him. In surveying town lots, he makes use of houses and other landmarks in the immediate vicinity, describing his lines by their directions and distances from these points. He sometimes notches the curbstones for the purpose of describing lines and corners. The magnetic variation under which the lines were run must be entered in the field notes. These records are finally deposited with the Recorder of Deeds. The Recorder of Deeds will furnish at any time under the seal of his office, upon the payment of the fees required by law, copies of these records. The Surveyor holds office for four years.

School Superintendent. — The School Superintendent is the chief educational officer of the county. He must have better qualifications than any other county officer and yet his salary is one of the lowest. He must hold a first-grade certificate, a normal school diploma, or a State certificate. He must be twenty-four years old and have been a resident of the county for one year. He makes an annual report of the educational statistics of the county to the State Superintendent. It is his duty to visit each school in the county at least once a year and to organize a County Teachers' Association. He must adopt a course of study which conforms to the State course of study, and he must grade the schools. He is required to hold teachers' meetings at various places in his county and to do all in his power to better the schools. He has power to grant certificates and also to revoke them if immoral conduct on the part of

the teacher is proved. The County Superintendent is a member of the County Textbook Commission. He is elected for a term of four years.

Probate Judge. — The settlement of the estates of deceased persons devolves upon the Judge of the Probate Court. When a will is made by the deceased, the Judge follows its provisions unless it involves a violation of the law. If no will is made by the deceased, the Judge manages the estate according to the law governing such cases. The Probate Judge also appoints guardians for minors and persons of unsound mind and attends to the settlement of the accounts of guardians and executors. He has charge of all matters pertaining to apprentices and may perform the marriage ceremony. The term of office of the Probate Judge is four years.

Public Administrator. — The Public Administrator takes charge of estates left without responsible managers and of children and insane persons who have no legal guardian; also of estates of strangers who die without will, heirs, or relatives. When there is no one to administer an estate, it devolves upon the Public Administrator. He serves for a term of four years.

QUESTIONS

1. How many counties are there in Missouri?
2. What is meant by the County Seat of a county?
3. How may the County Seat be removed? (Article IX, Section 2.)
4. How may a county be divided? (Article IX, Section 3.)
5. Name the officers of your county.
6. Name three duties belonging to the County Court.
7. What officer is appointed by the County Court?

8. If a vacancy occurs in the County Clerk's office, how is it filled?

9. What is the salary of the Prosecuting Attorney? Of the Circuit Clerk?

10. Talk with any of your county officers about their duties.

11. Classify the county officials as legislative, executive, and judicial officers.

12. If you should see a man break into a store, to what officer would you report the fact?

13. If you should find a man dead by the roadside, what officer should be notified?

14. If a young man and a young lady should inquire where to get a marriage license, to what officer would you direct them?

CHAPTER VII

THE STATE: THE LEGISLATIVE DEPARTMENT

THE State government is the source of authority for the more limited units of government, such as cities, townships, and counties. These smaller units of government cannot legislate for the larger interests of the State. We must have uniform laws to deal with crimes against society. These laws are made by the Legislature and enforced by the executives of the State. The State enacts laws by which railroads and express, mining, and insurance companies are regulated. There are three branches of departments of State government, legislative, executive, and judicial. The legislative department makes the laws, the executive department enforces them, and the judicial department interprets and applies them.

Legislative Power. — The legislative power of the State is vested in the Legislature or the General Assembly. It is composed of two houses, Senate and House of Representatives.

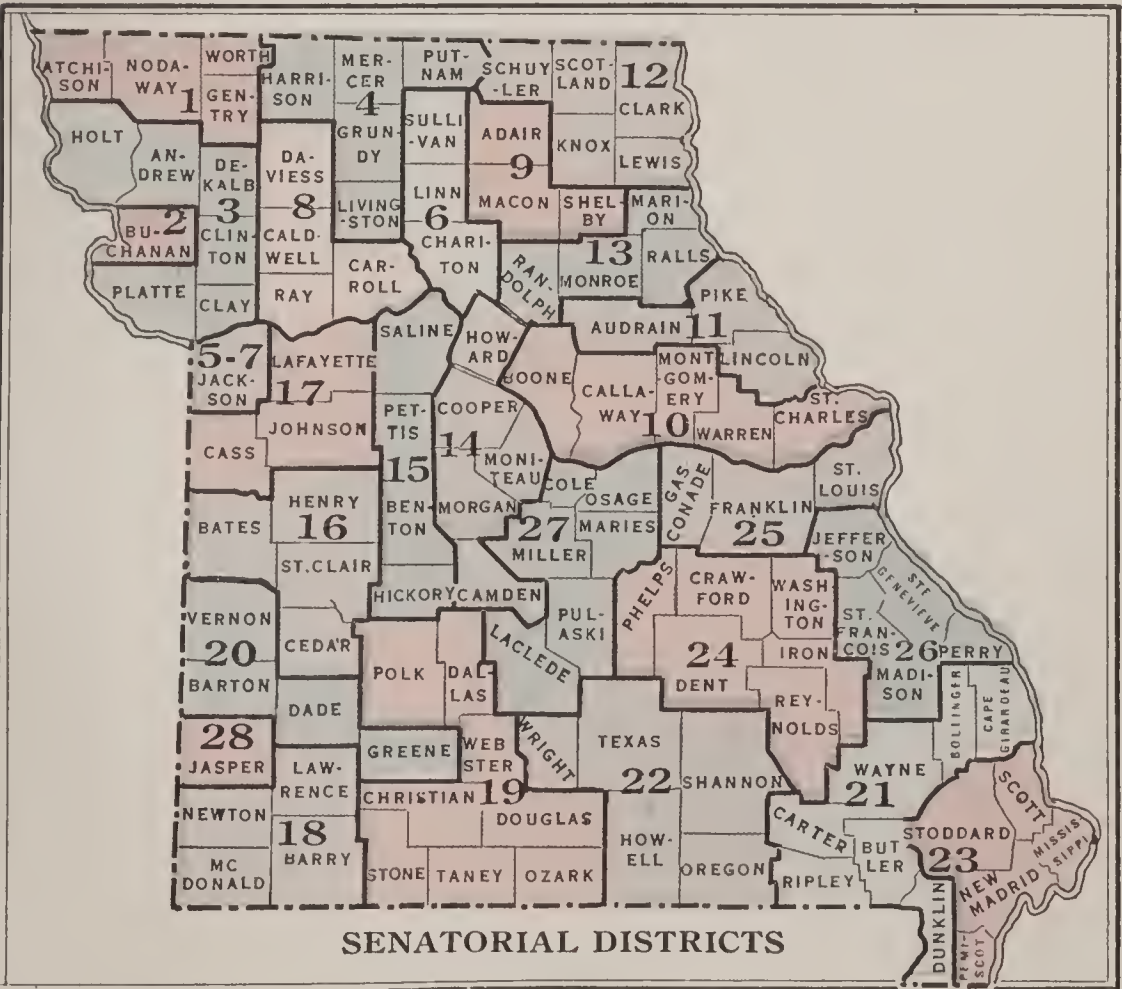
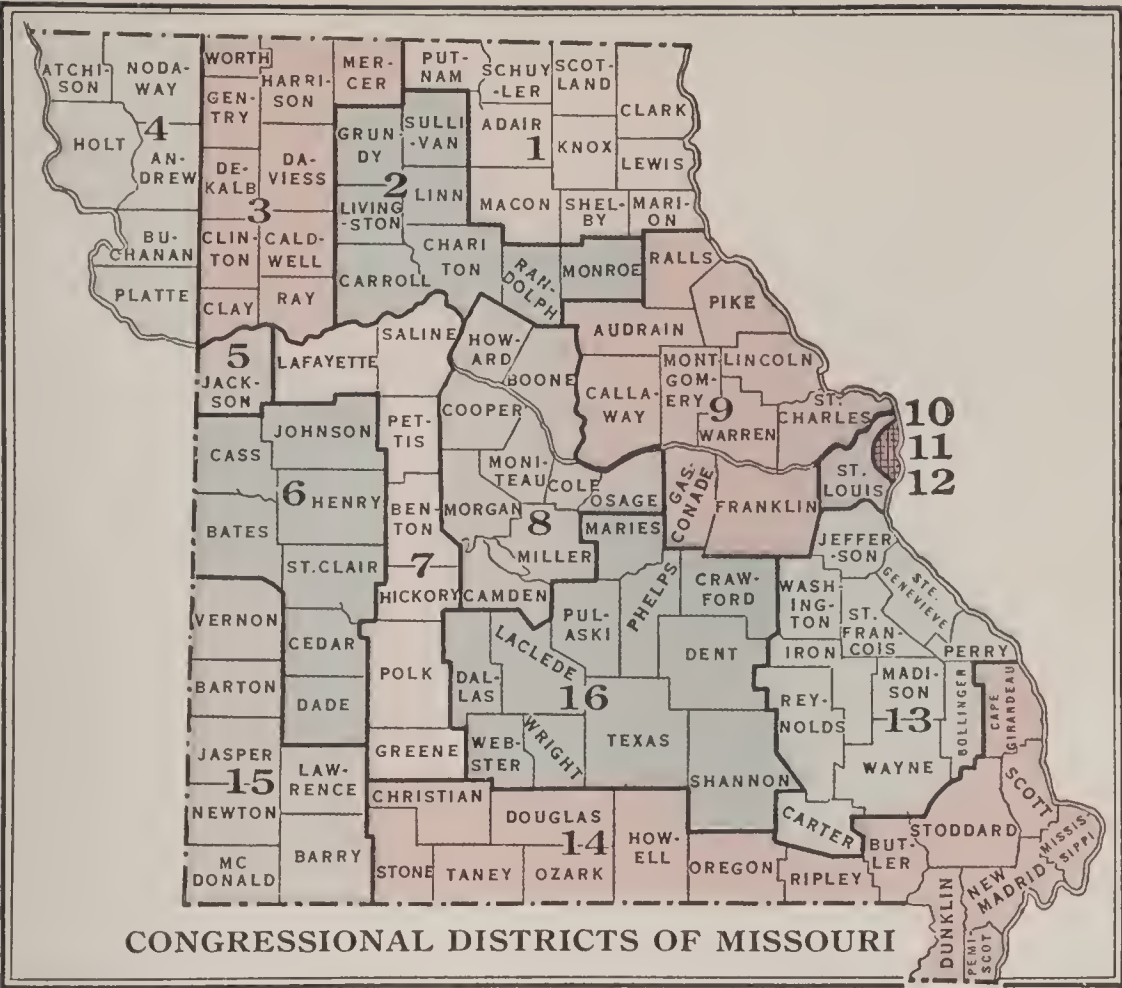
The House. — There are one hundred and forty-two members of the House of Representatives. These Representatives are divided among the counties of the State and the City of St. Louis as follows: Buchanan County, four; Greene, two; Jackson, six; Jasper, three; St. Louis County, two; City of St. Louis, sixteen; and the other one hundred and nine counties of

the State, one each. When a county has more than one Representative, it is divided by the County Court into as many districts as it has Representatives. In the City of St. Louis, the Circuit Court divides the city into districts so that each district shall not have less than two, nor more than four, Representatives. In each case the Representative must reside in the county or district. His term of office is two years. (Article IV, Section 3, State Constitution.)

Qualifications. — A Representative must be at least twenty-four years of age and a male citizen of the United States. He must have been a qualified voter of Missouri two years and an inhabitant of the county or district one year next before the day of his election. He must have paid a State and county tax within one year next preceding his election. (Article IV, Section 4, State Constitution.)

House Officers. — The House of Representatives elects certain officers at the beginning of each session. They are as follows: the Speaker, who is the presiding officer of the House; the Chief Clerk and his assistants, who keep a record of the proceedings; the Sergeant-at-Arms, who keeps order; the Doorkeeper, the Engrossing Clerk, the Enrolling Clerk, the Official Reporter, and the Chaplain.

Congressmen. — The discussion of the qualifications, apportionment, and election of Representatives in Congress will be found in Article I of the Federal Constitution. Missouri has sixteen Congressmen and will have this number until after the next census. The map on page 47 will show the congressional districts into which the State of Missouri is divided.



Senate. — The Senate of the State of Missouri consists of thirty-four members who are elected by the qualified voters of their respective districts for a term of four years. “For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as may be, the same to be ascertained by the last decennial census taken by the United States.” (Article IV, Section 5, State Constitution.)

Qualifications. — Every State Senator must be at least thirty years of age and a male citizen of the United States. He must have been a qualified voter of the State for three years and an inhabitant of the district from which he is elected one year next before the day of his election. He must have paid a State and county tax within one year next preceding his election. (Article IV, Section 6, State Constitution.)

Apportionment. — For the purpose of electing State Senators, the State has been divided into thirty-four senatorial districts. One Senator is selected for each of these districts by the qualified voters thereof. One half of the Senators are elected every two years, the Senate having been divided into two classes. In districts having odd numbers the elections are held every four years counting from 1908. These Senators belong to the first class. In districts having even numbers, elections are held every four years counting from 1910. These belong to the second class. (Article IV, Section 7, State Constitution.)

Senatorial Districts. — The State is divided into thirty-four senatorial districts of contiguous territory. It is the duty of the General Assembly at the first

session after each national census to re-district the State. If for any cause the General Assembly fails to do this, the work devolves upon the Governor, Secretary of State, and Attorney-General to re-district the State within thirty days after the adjournment of the General Assembly. A proclamation to this effect is then issued by the Governor to the people. The map on page 47 shows the senatorial districts.

Election. — Senators and Representatives are elected at the general election the first Tuesday after the first Monday in November. In senatorial districts composed of more than one county, the election returns from each county are sent to the Clerk of the county first named in the law establishing the district. It is the duty of this Clerk to certify the result to the Secretary of State. It is his duty also to issue under seal of his office a certificate of election to the person receiving the highest number of votes. If this person has paid a State and county tax as required by law, the Clerk includes this fact in his certificate.

Senate Officers. — The Lieutenant-Governor by virtue of his office is the presiding officer of the Senate. In his absence the President pro tem. presides. The Secretary and his assistants keep a record of the proceedings. The Enrolling Clerk and the Engrossing Clerk make permanent records of the bills that come before the body. The other officers of the Senate are Doorkeeper, Sergeant-at-Arms, Official Reporter, and Chaplain.

Oath of Office. — Every Senator- and Representative-elect, before entering upon the duties of his office, shall take and subscribe to the following oath or affirmation :

“ I do solemnly swear, or affirm, that I will support the Constitution of the United States and of the State of Missouri, and faithfully perform the duties of my office; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law.” The oath shall be administered in the halls of the respective houses by some judge of the Supreme Court, or the Circuit Court, or the County Court of Cole County, or after the organization by the presiding officer of either house and shall be filed in the office of the Secretary of State. (Article IV, Section 13, State Constitution.)

Compensation. — Members of the General Assembly and the President of the Senate are paid for their services as follows:

1. Five dollars per day for the first seventy days and one dollar per day thereafter.
2. During revising sessions five dollars per day for the first one hundred and twenty days and one dollar per day thereafter.
3. For all regular sessions an additional thirty dollars in full for stationery, postage, and all other incidental expenses.
4. Mileage for each session, except those called within one day after adjournment. The amount is fixed by law for each county.
5. The Speaker of the House, the President pro tem. of the Senate, and the Speaker pro tem. of the House receive in addition two dollars for each day's actual service as presiding officer.

Making Laws. — Any bill may originate in either house, and if a majority of the members vote for it, it is then sent to the other house. If a majority of this house vote for it, it is then sent to the Governor for his signature. The bill becomes a law if the Governor

signs it; if he vetoes it, he sends it back to the house where it originated. If two thirds of this house, on reconsideration, vote for it, it is then sent to the other house, where by a two-thirds vote it becomes a law without the signature of the Governor. A bill must receive the votes of a majority of all the members elected to both houses, to become a law. If the Governor fails to return the bill to the house where it originated within ten days, it becomes a law without his signature. Article IV, Sections 24 to 42, carefully describes the method of procedure in the making of laws. All of these sections should be studied carefully in the class. A few of the sections are here given :

Section 23. Style of laws — enacting clause. — The style of the laws of this State shall be : “ *Be it enacted by the General Assembly of the State of Missouri, as follows.* ”

Section 25. Origin of bills — must be read on three days. — Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

Section 26. Bills must be reported and printed. — No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of members.

Section 28. Amendments to be incorporated in bill and printed — committee on printing and engrossment to report. — All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill as thus engrossed shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision of a committee,

whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

Section 30. Final vote on bills, yeas and nays. — No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

Section 35. When laws take effect — emergency — vote required. — No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two thirds of all members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal.

To engross a bill is to write it upon the records with all of its amendments. To enroll a bill is to write it neatly upon the records after it has been passed by both House and Senate.

Powers of Each House. — Each house elects its own officers, judges the election returns, and the qualifications of its own members. Each may punish its own members for disorderly conduct and punish by fine or imprisonment other persons for disorderly conduct in its presence. By a vote of two thirds, each house may expel a member for cause. Each originates bills and each may amend or reject those originated in the

other house. The House of Representatives prefers all articles of impeachment, but the Senate tries all impeachments. The same is true in the Federal Constitution; the House of Representatives of the United States prefers all articles of impeachment, but the Senate of the United States tries all impeachments.

The Initiative and Referendum. — The people of Missouri themselves take an active part in law-making through the agency of the Initiative and Referendum, which was adopted in 1908. By the Initiative, whenever not more than eight per cent of the legal voters in each of at least two thirds of the congressional districts desire a law passed or an amendment made to the Constitution, a petition with their signatures is filed with the Secretary of State, together with the measure they wish adopted. The petition is filed at least four months before the election at which it is to be voted upon. The question is put upon the ballot, and if a majority favor it, the bill becomes a law.

Whenever the General Assembly passes a law not satisfactory to the people, five per cent of the legal voters in each of at least two thirds of the congressional districts may, within ninety days after the final adjournment of the session of the assembly which passed the law, sign a petition demanding a referendum; and the bill does not take effect unless at the next election a majority of the voters favor it.

Prohibitions. — The State of Missouri has had three Constitutions, including the one now existing. The first two were very liberal in granting aid to railroads and other corporations. The powers granted were frequently abused, bonds were issued in some cases in

favor of projected railroads that were never built, and taxes became burdensome. These burdens and abuses led the people to put many restrictions and limitations in the present Constitution. Some of these are enumerated below :

1. The General Assembly cannot contract a debt on behalf of the State, nor issue bonds on its behalf, except (1) in renewal of existing bonds when they cannot be paid at maturity ; or (2) to provide for some unforeseen emergency, and then only under certain definite limitations.

2. It cannot lend the credit of the State to any individual, association, or corporation for any purpose whatsoever.

3. It cannot authorize any city, town, township, or other subdivision of the State to lend its credit, nor to grant public money or other thing of value to any individual, association, or corporation.

4. Neither can the General Assembly grant public money nor other thing of value to any person, association, or corporation.

5. It cannot subscribe stock nor authorize its subscription in any corporation or association.

6. The General Assembly cannot remove the seat of government from Jefferson City. Only through the adoption of an amendment to the Constitution can this be done. So far such an amendment has failed to receive the necessary majority.

Order of Appropriations. — Money can be drawn from the treasury of the State only by regular appropriations made by law. These appropriations must be made in the following order :

1. For the payment of the interest on the bonded debt of the State.

2. For the benefit of the sinking fund, setting aside not less than two hundred fifty thousand dollars per annum.

3. For free public school purposes.

4. For the expense of assessing and collecting the revenue.

5. For the payment of the civil list.

6. For the support of the eleemosynary institutions of the State.

7. For the pay of the members of the General Assembly, and for such other purposes, not prohibited by law, as may be deemed necessary.

QUESTIONS AND SUGGESTIONS

1. What is meant by the Legislative department?
2. How many members are there in each house?
3. What counties have more than one Representative?
4. Why not allow each county to make its own laws?
5. Can a woman be a Representative in the State Legislature?
6. Why does the Constitution of the State require a man to be thirty years old to be a State Senator and only twenty-four years old to be a Representative?
7. What is the duty of a Chaplain? An Engrossing Clerk? An Enrolling Clerk?
8. By whom is the State divided into senatorial districts?
9. Who issues the certificate of election to the Senators?
10. State the oath of office that each member of the General Assembly takes.
11. What is meant by a revising session of the Legislature?
12. What is meant by "to engross a bill"? "to enroll a bill"?
13. What is meant by impeachment? Can you name a Governor of any State that has been impeached?
14. What President of the United States was impeached?
15. What is meant by the "Initiative and Referendum"? What effect does it have upon the State Legislature?
16. Name two State prohibitions.
17. Name one power that belongs to each house.
18. What is the number of your senatorial district?
19. Who is your Senator?
20. Where does he live?
21. How long has he been in office?
22. Who is your Representative?
23. How many senatorial districts are there in the State of Missouri?
24. When does the State Legislature meet?
25. Locate your own congressional district on the map.

CHAPTER VIII

THE STATE: THE EXECUTIVE DEPARTMENT

The Executive Department. — “The Executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the seat of government during their term of office and keep the public records, books, and papers there, and shall perform such duties as may be prescribed by law.” — Constitution. All of these officers are elected for a term of four years beginning the second Monday of January next after their election and continuing until their successors are elected and qualified. The Governor and State Treasurer cannot serve two consecutive terms.

Election Returns. — *Article V, Section 3 — Returns of election — tie, how determined.* — The returns of every election for the above-named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately after the organization of the House and before proceeding to other business, open and publish the same in the presence of a majority of each House of the General Assembly, who shall for that purpose assemble in the

hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of such persons for said office.

Contested Elections of Executive Officers. — *Section 25.* Contested elections of Governor and Lieutenant-Governor shall be decided by a joint vote of both houses of the General Assembly, in such manner as may be provided by law; and contested elections of Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Schools shall be decided before such tribunal and in such manner as may be provided by law.

Governor. — “The supreme executive power shall be vested in a chief magistrate, who shall be styled The Governor of the State of Missouri.” — Constitution.

Qualifications. — The Governor shall be at least thirty-five years old, a male, and have been a citizen of the United States ten years and a resident of this State seven years next before his election.

Duties. — 1. He must see that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

2. The Governor shall be commander-in-chief of the militia of the State, except when they shall be called into the service of the United States. He may call out the militia to execute the laws, suppress insurrections, and repel invasions.

3. He need not command the militia in person unless directed to do so by a resolution of the General Assembly.

4. The Governor shall have power to grant reprieves, commuta-

tions, and after conviction, pardons for all offenses, except treason and cases of impeachment.

5. The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

6. The Governor shall, at the commencement of each session of the General Assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient.

7. When any office shall become vacant, the Governor (unless otherwise provided for by law) shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed and qualified according to law.

8. Read Article V, Sections 12, 13, and 14, of the State Constitution.

9. The Governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the Governor, sealed with the Great Seal of the State of Missouri, and attested by the Secretary of State.

In Article V, Sections 1 to 14, the qualifications and duties of the Governor of the State are clearly outlined and defined. Article V of the State Constitution should be studied in connection with this chapter.

Lieutenant-Governor, Qualifications and Duties. —
“The Lieutenant-Governor shall possess the same qualifications as the Governor and by virtue of his office shall be President of the Senate. In committee of the whole he may debate all questions, and when there is an equal division he shall give the casting vote in the Senate, and also in joint vote of both houses.

In case of death, conviction, or impeachment, failure to qualify, resignation, absence from the State, or other disability of the Governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.” — Constitution. The Lieutenant-Governor is generally given the privilege of appointing the committees if he is a member of the majority party, but his office does not invest him with this right.

“ The Senate shall choose a President pro tempore to preside in cases of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor. If there be no Lieutenant-Governor, or the Lieutenant-Governor shall . . . become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed ; and if the President of the Senate . . . shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives, in the same manner and with the same powers and compensations as are prescribed in the case of the office devolving upon the Lieutenant-Governor.” — Constitution.

Salary of Lieutenant-Governor and President Pro Tempore. — The Lieutenant-Governor, or the President pro tempore of the Senate, while presiding in the Senate, receives the same compensation as is allowed to the Speaker of the House of Representatives, which is seven dollars per day.

Qualifications of Other Executive Officers. — “ No person shall be eligible to the office of Secretary of

State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.” — Constitution.

Secretary of State. — The Secretary of State shall be the custodian of the seal of the State, and authenticate therewith all official acts of the Governor, his approval of laws excepted. The said seal shall be called the “Great Seal of the State of Missouri,” and the emblems and devices thereof, heretofore prescribed by law, shall not be subject to change. The Secretary of State shall keep a register of the official acts of the Governor, and when necessary shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the General Assembly whenever required to do so.” — Constitution. He receives the election returns of the State and county officers. He preserves in his office the papers, journals, and proceedings of both houses of the General Assembly. (Read Article V, Sections 22 and 24.)

Treasury Department. — “A special department is hereby established, to be known as the Treasury Department, which shall embrace the offices of State Treasurer and State Auditor.” — Statutes. These two officers handle large amounts of the money, bonds, and securities belonging to the State. Every precaution is taken to guard the interests of the State. Accordingly, before assuming the responsibility of his office, the Treasurer is required to give a bond in the

sum of five hundred thousand dollars, with ten sureties, conditioned upon the faithful discharge of his duties. Both bond and sureties must be approved by the Governor. The bond must be renewed every two years and more often if the Governor demands it. The State Auditor must give a bond in the sum of fifty thousand dollars, subject to approval by the Governor. Each of these officers, the State Treasurer and the State Auditor, appoints a Chief Clerk who must be thoroughly competent to perform all the duties prescribed by law.

Auditor. — The Auditor is the general accountant of the State. He keeps the public account books, vouchers, documents, bonds, and coupons. He keeps an account of the contracts made by the State, and of its revenue. He audits, adjusts, and settles all claims against the State that are payable out of the State Treasury. He draws all warrants upon the Treasury for money except as otherwise provided, stating in each case the fund out of which the warrant is to be paid. It is his duty to settle, audit, and adjust the accounts of collectors of revenue; to keep an account between the State and the State Treasurer; also to keep an account of the debts and credits between the State and the United States. At the beginning of each session of the General Assembly he reports in detail to that body the condition of the revenues of the State and the expenditures during the two preceding years. He makes a detailed statement of the public debt, gives an estimate of the revenue needed for the two succeeding years, and also formulates any plans that he may think expedient for the support of the public credit.

Treasurer. — The State Treasurer has charge of all moneys belonging to the State not legally kept by other persons. He pays out these moneys only on warrants properly drawn on the Treasury. He keeps a full account of the funds of the State and of the appropriations made from them. By law, he is required to make a monthly report to the Governor stating the amount of money received during the month, the amount paid out during the same time, and the balances on hand to the credit of the various funds or the exact amount of money in his vaults at the time of the report. At the beginning of each session of the General Assembly he is required by law to make a statement of the condition of the Treasury, including an account of its operations during the two preceding years.

Attorney-General. — The Attorney-General is the chief law officer of the State. It is his duty to assist the Prosecuting Attorney of any county in the discharge of his duties when directed to do so by the Governor. He must give, on request, his written opinion upon points of law to the General Assembly, to either house, to any State officer, or to the Prosecuting Attorney of any county. Whenever the State has a case in the Supreme Court, he must appear in behalf of the State to prosecute or defend. It is his duty also to institute such suits and proceedings as may be necessary to protect the rights and interests of the State.

Superintendent of Public Schools. — The general supervision of education is intrusted to a Superintendent of Public Schools. He has general supervision of the

school funds of the State with a view to their safety and their correct distribution. He has power to require reports of county and town officers and Boards of Education concerning the condition of the schools, the management of the funds, and to collect any other educational statistics from them. He attends to the publication and distribution of the school laws. He issues an annual report in which are given statistics concerning the schools and the school funds, and in which he makes such recommendations as he thinks wise. He examines teachers with a view to granting State certificates for five years or for life. It is his duty to inspect high schools and to classify them as belonging to the first, second, or third class. He must consult with school boards and educational officers in general in an endeavor to stimulate educational sentiment and activity. His duties are so numerous that it would be impossible to enumerate all of them in this space.

Salaries. — The salary of the Governor is five thousand dollars per year. In addition to this he is provided with a residence, known as the Governor's Mansion.

The salary of the Secretary of State is three thousand dollars per year.

The salary of the Lieutenant-Governor is one thousand dollars per year and seven dollars per day during the session of the Legislature.

The salary of the State Treasurer is three thousand dollars per year.

The salary of the State Auditor is three thousand dollars per year.

The salary of the Attorney-General is three thousand dollars per year.

The salary of the Superintendent of Schools is three thousand dollars per year.

These salaries are paid from the State Treasury in monthly installments at the end of each month.

Impeachments. — Officers of the State are subject to impeachment and removal from office for high crimes and misdemeanors, and for misconduct, habits of drunkenness, or oppression in office. The House of Representatives prefers impeachments, and the Senate as a court tries such cases. Before beginning the trial, each Senator is sworn to do justice according to law and evidence. In case a Governor is on trial, the Chief Justice of the Supreme Court presides. To convict an impeachment requires the vote of two thirds of the Senators present, and the penalty assessed can extend only to removal from office and disqualification to hold any office of honor, trust, or profit in the State.

The Executive Boards. — There are five executive boards in the State provided for by law. They are as follows: Penitentiary Board, Equalization Board, Public Printing Board, Board of Education, and Board of Fund Commissioners. Each of these boards is composed of State officials and is in charge of certain departments of government.

Penitentiary. — It is the duty of the Penitentiary Board to visit the State prison once a month, and more often if necessary, to inquire into the management, discipline, and policy of the institution, the character of the punishment and the means employed, and to investigate the

sale and purchase of articles and materials. This Board must make a detailed report to the Legislature every two years. This report shall contain an inventory of the property, an account of the employment of the convicts, a statement showing money received from all sources and the contracts entered into during the time. This Board is composed of the State Treasurer, State Auditor, and Attorney-General.

Equalization. — This Board is composed of the Governor, State Auditor, State Treasurer, Secretary of State, and Attorney-General. It is the duty of this Board to adjust and equalize the valuation of real and personal property among the several counties in the State. It performs such other duties as are prescribed by law.

Public Printing. — This Board is composed of the State Auditor, State Treasurer, and Secretary of State. They keep an account of the paper furnished the Public Printer and make sure that it is used economically. The executive officers make their order for printing through this Board, which in each case sees that the full number of copies is delivered. It also examines and audits all accounts for printing and binding, and corrects all mistakes that are found in bills.

Education. — The State Board of Education has general supervision of all the educational interests of the State. It directs the investment of all moneys received by the State to be applied to the capital of any fund for school purposes, and it sees that all funds are applied as they were intended. This Board is composed of the School Superintendent, Governor, Secretary of State, and Attorney-General.

Fund Commissioners. — This Board is a part of the Treasury Department and exercises supervisory control over it. It directs the payment of interest on the State debt, and also directs the issue, redemption, and cancellation of the bonds of the State. This Board is composed of the Governor, State Auditor, State Treasurer, and Attorney-General.

Appointive Officers. — The Governor appoints several important executive officers by the advice and consent of the Senate. Their duties are given in the following paragraphs.

Superintendent of Insurance. — The insurance laws of the State relate to the policies of both life and fire companies. The chief officer of the department is the Superintendent of Insurance. He must be a citizen of the State and experienced in matters of insurance. He must file and preserve in his office at Jefferson City all the records, books, and papers of the department. It is his duty to issue certificates for the purpose of organizing insurance companies, and of authorizing them to transact business in the State. He must enforce the insurance laws of the State, and inquire into the management of companies incorporated under the laws of the State that are doing business in the State. He has full power to prosecute a company for violating the insurance laws.

Warden of the Penitentiary. — The Warden controls and manages the penitentiary, and enforces all rules and orders of the Board of Inspectors. He prescribes the kind and quantity of food for the convicts. He attends to the financial affairs of the prison and keeps an account of moneys received and disbursed. He

buys all the raw materials needed for manufacture by the convicts. He lets contracts for supplying the institution with clothing and provides medicine and other necessary articles.

Adjutant-General. — Next to the Governor, the Adjutant-General is the highest military officer of the State. He receives and transmits orders from the Commander-in-Chief. He keeps a list of all the officers of the militia, and a record of all promotions, appointments, resignations, enlistments, discharges, deaths, and desertions. He also records other matters pertaining to the organization of the militia. He performs the duties belonging to the Quartermaster-General, Paymaster-General, Chief of Ordnance, and Commander-General.

Inspectors. — The most important of these officers is the Inspector of petroleum, whose salary is three thousand five hundred dollars per year. There is also an Inspector of tobacco, grain, beer, and of mines, factories, and hotels. These officers are appointed for the purpose of aiding in business, protecting persons in mines, and maintaining the purity of manufactured articles.

Labor Commissioner. — A Labor Commissioner is appointed for a term of two years. His office is at Jefferson City. It is his duty to inspect factories, warehouses, tunnels, workshops, elevators, and mines. He must also give his attention to the number of doors, windows, stairways, and fire-escapes in such factories and workshops, and to hygienic conditions in general. He gathers statistics concerning labor conditions in the State, and uses his influence to settle

disputes between employers and employees. His salary is three thousand dollars per year.

Board of Health. — This Board issues licenses, after examination, to those who wish to practice medicine, and makes quarantine regulations. It is composed of seven men appointed by the Governor. The members of the Board receive a compensation of ten dollars per day in attending Board meetings and performing other duties in connection with its offices. They also receive traveling expenses. Meetings are held in January and July of every year. The Board conducts a bacteriological laboratory at its offices in the capitol, in which examinations are made free of charge to citizens of the State.

Board of Agriculture. — This Board is composed of the Governor, the Dean of the Agricultural College, the State Superintendent of Schools, and one member appointed by the Governor, from each Congressional district in the State. It is the duty of this Board to promote in a general way the agricultural interests of the State. It organizes by the election of a Secretary and a Treasurer who are not members of the Board. The Secretary receives two thousand five hundred dollars per year and the Treasurer one hundred dollars per month.

Bank Commissioner. — The Bank Commissioner and his deputies inspect and supervise the banking interests of the State. This Commissioner is appointed by the Governor for a term of four years and receives a salary of three thousand five hundred dollars per year.

In addition to the boards already mentioned, there is a Board of Geology, a Fish Commissioner, and a

Board of Immigration, the duties of all of which are more limited.

Charities and Corrections. — The State supports four hospitals for the insane. They are located at Fulton, St. Joseph, Nevada, and Farmington. The State also maintains a home for Federal soldiers at St. James, and a home for Confederate soldiers at Higginsville. There is a colony for the feeble-minded at Marshall and a school for the deaf and dumb at Fulton. The State also provides an industrial home for girls at Chillicothe, and a similar home for boys at Boonville. The fruit experiment station and the poultry station are located at Mountain Grove. A sanitarium for tuberculosis is maintained by the State at Mt. Vernon.

Many other institutions for the care of the sick, poor, and unfortunate are maintained by local governments and by private organizations, societies, and churches.

QUESTIONS

1. Distinguish the executive and legislative departments of government.
2. Name two executive officers who cannot succeed themselves.
3. What executive officer receives the election returns? What does he do with them?
4. If two or more persons receive the highest number of votes, how is the election determined?
5. In whom is the supreme executive power vested?
6. Compare the requirements for eligibility to the office of Governor and those for eligibility to the Presidency of the United States.
7. Name three duties of the Governor. Name three ways of filling the vacancy if the Governor resigns.

8. When may a Governor call an extra session of the Legislature, and what should be the nature of the call?

9. Should a vacancy occur in the Sheriff's office of your county, who would fill the vacancy?

10. Give the qualifications and some of the duties of the Lieutenant-Governor.

11. How does the salary of the Governor compare with that of the President of the State University?

12. What executive officer has charge of the seal of the State?

13. Name two duties each of the following officers: Auditor, Treasurer, Attorney-General.

14. If the State Superintendent of Schools should resign, how is the vacancy filled? How did the present Superintendent get the office?

15. What is meant by impeachment? For what may an officer be impeached?

16. Name the five executive boards provided for by law.

17. In general, what is the duty of the State Board of Equalization?

18. What officers constitute the State Board of Education?

19. Name some officers whom the Governor appoints by the advice and consent of the Senate.

20. What is the most important duty of the State Board of Health?

21. By whom are most of the State officers commissioned? (Article V, Section 23, Constitution.)

CHAPTER IX

THE STATE: THE JUDICIAL DEPARTMENT

The Judicial Department. — The judicial power of the State is vested in the Courts of the Justices of the Peace, the Probate Courts, the Circuit Courts, the County Courts, the Courts of Appeal, and the Supreme Court of the State. The Courts of the Justices of the Peace have been discussed in Chapter V. The County Courts and the Probate Courts have been considered in connection with county government.

Courts of Record. — Courts of Record are required by law to keep a faithful and just record of their proceedings. The statutes of the State classify the Probate Courts, the Circuit Courts, the County Courts, the Courts of Appeal, and the Supreme Court as Courts of Record. Every court of this class must keep a seal “with such emblems and devices as the Court may think proper.”

General Powers. — All courts have the power to issue such writs as may be necessary to the exercise of their authority. Interpreters and translators may be employed by the court to explain or translate such writings as may be necessary to determine any case. A grand jury may be called at special terms of court, and the trial of criminal cases may proceed as at regular terms of court. The Court may, by the consent of the parties, exercise its ordinary jurisdiction in

civil cases. Every Court may punish for disorderly conduct in its presence, for breach of the peace or noise tending to interrupt its proceedings, for willful resistance to any order, and for refusal to be sworn as a witness or to answer legal questions when sworn.

Docket. — A docket is a list of cases to be tried at any term of court. The Clerk of each Court of Record, under the direction of the Judge, must make out two dockets: the Court docket and the bar docket; arranging the order of procedure, with due time assigned to each case.

Records. — The language used in all court records in Missouri is English, except such technical terms as are now commonly used. It is the duty of the Judge to supervise the work of the Clerk and to inquire into the manner of keeping the rolls and records of the Court; to prescribe rules for securing uniform and accurate records; and to see that all entries required by law be made and at the right time. The proceedings of the Court for each day are read in open court on the morning of the following day, except on the last day of the term, when they are read in full and signed by the judge at the time of adjournment.

Limitations of Judges. — No Judge shall sit in the trial of any case in which he is interested, related to either party, or in which he has been counsel, without the express consent of the parties to the case. With the exception of Judges of the County Court and Probate Court, no Judge can act as attorney in any Court in the State except as permitted by law; neither can such Judge have a partner who practices in the Court over which he presides.

Juries. — A jury is a body of men selected and enrolled according to law and “sworn to inquire into and try any matter of fact, and to render their verdict according to the evidence legally adduced. Every juror, grand and petit, shall be a male citizen of the State, resident of the county, sober and intelligent, of good reputation, over twenty-one years of age, and otherwise qualified.” — Statutes. There are two kinds of juries, petit juries and grand juries.

Grand Jury. — A grand jury in Missouri is composed of twelve men, any nine of whom may find an indictment or a true bill. When in session it has power to investigate violations of the criminal laws of the State and to return indictments for every character and grade of crime. The proceedings are conducted under an oath of secrecy, but it has full power to send for witnesses and to compel them to testify. If the grand jury finds an indictment or a true bill against any one, it brings the accused into Court for trial. The Court must call the grand jury to investigate violations of election and liquor laws at least once a year. The grand jury shall also inquire into the failure or refusal of county officers and other officers to do their duty as prescribed by law.

Petit Jury. — This is the trial jury, and it sits in judgment on both civil and criminal cases. All sessions are public, and in criminal cases the accused has the right to a speedy trial. In Courts of Record the jury is composed of twelve men. In civil cases any nine may bring in a verdict; but in criminal cases it requires the agreement of the entire number to bring in a verdict. In criminal cases only the foreman

of the jury signs the verdict, while in civil cases it is signed by all — nine at least — who agree to it.

Selection of Juries. — The County Court selects the jurors by lot. The names of two hundred qualified jurors, an equal number from each township as nearly as may be, are selected by the Court. The names of such persons and the townships from which they are selected are written on separate slips of paper of the same size and kind, and all names from any one township are placed in a box prepared for the purpose. The County Clerk, being so placed or situated that he cannot see the names, in the presence of the Court, takes the slips from the box one at a time, until he gets the required number from each township. This act is repeated for each township until he has drawn the names of twenty-four persons who shall serve as jurors for the ensuing term of court. These twenty-four men constitute the petit jury.

Circuit Courts. — The Circuit Courts serve the interests of a large number of people. They have jurisdiction over both civil and criminal matters. At least two terms of court are held in each county every year.

Qualifications of Judges. — A Judge of the Circuit Court must be thirty years old. He must have been a citizen of the United States five years, a qualified voter of the State three years, a resident of the circuit for which he was elected, and he must be learned in the law. He is a conservator of the peace in his district or circuit.

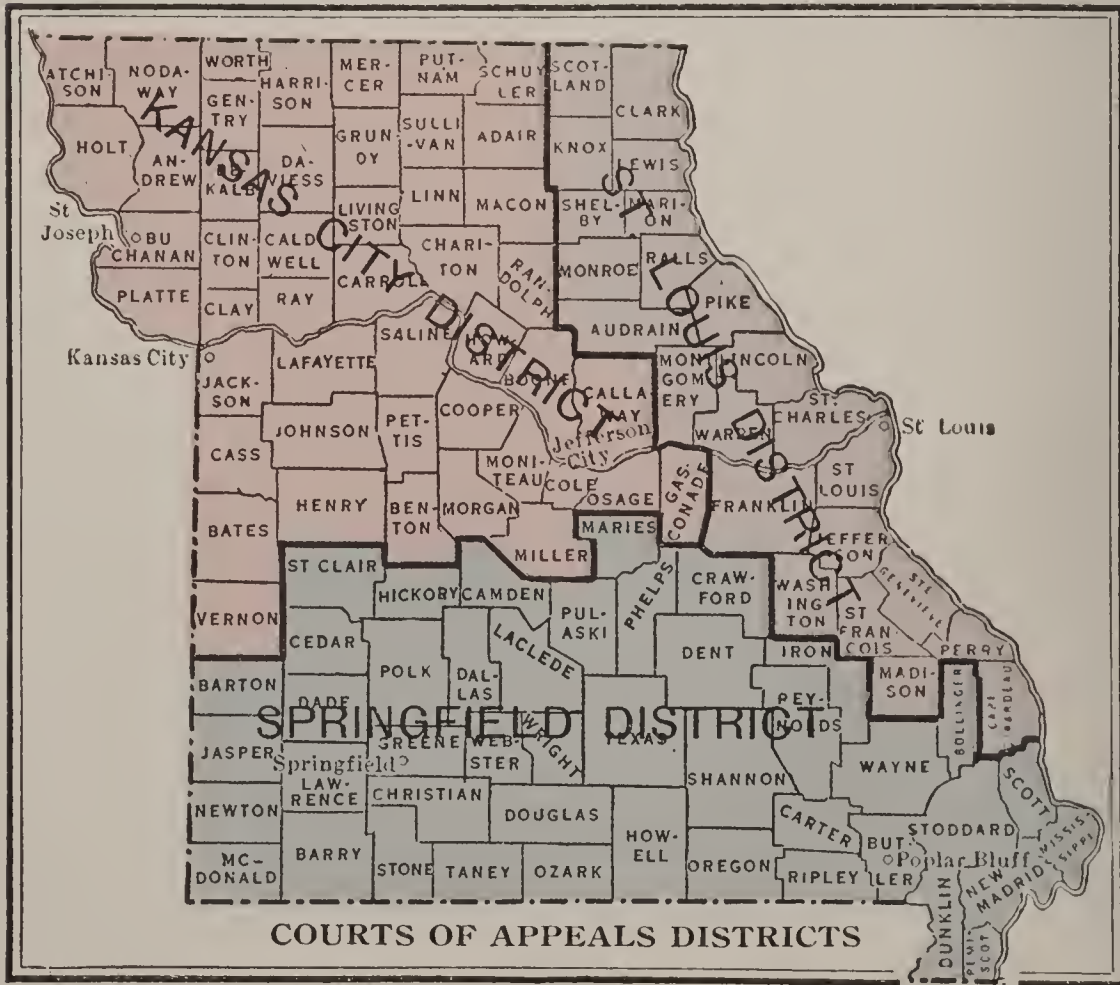
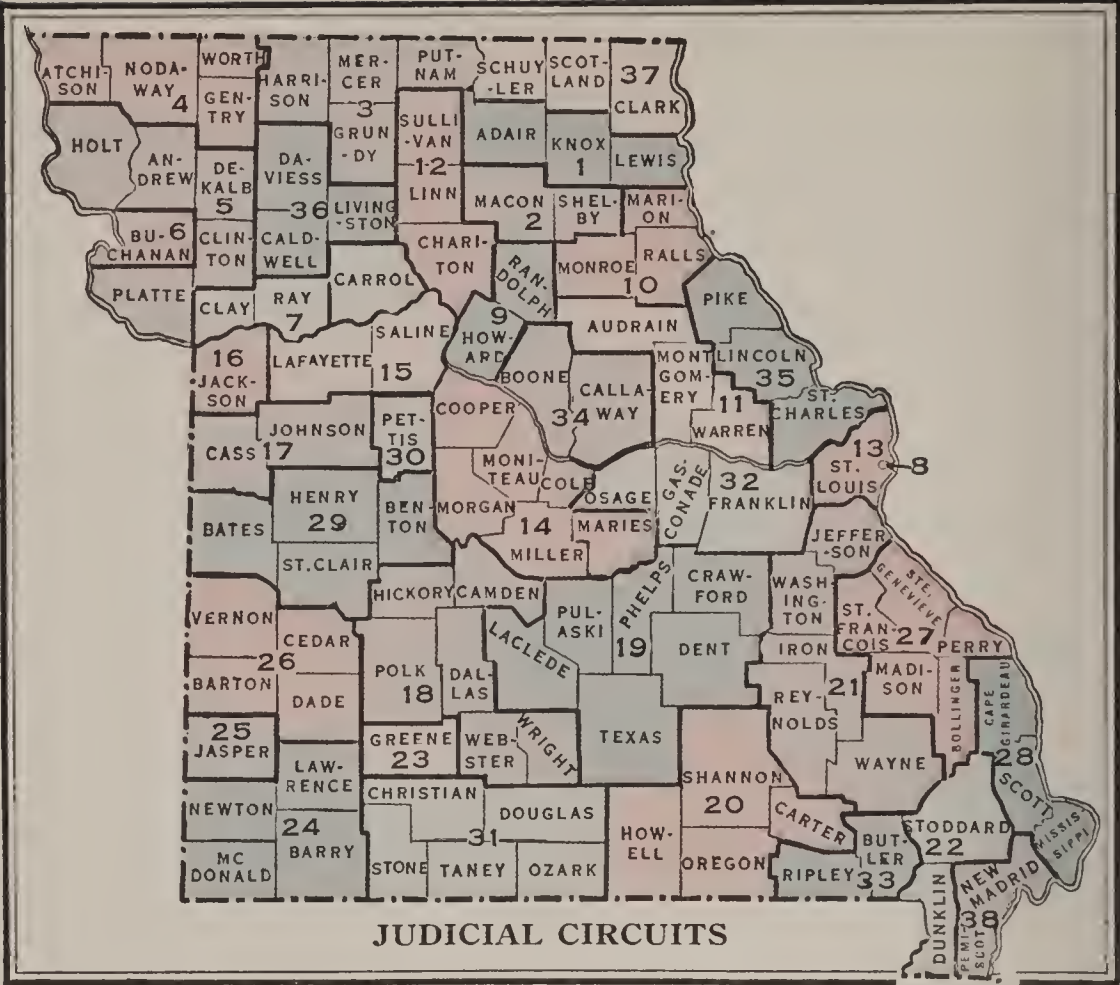
Election of Judges. — The Judges of the Circuit Courts are elected by the people of their respective

circuits for a term of six years. Their names appear upon the ballot with those of the county candidates, who are chosen at the general election in November.

Judicial Circuits. — The General Assembly divides the State into judicial circuits, basing their size upon the population and the amount of legal business transacted. The counties of the State are divided into thirty-eight circuits. There are now sixty-five Circuit Judges in the State, and the number is constantly increasing. The map on page 76 shows the judicial circuits. Some of the larger counties have more than one Circuit Judge. Buchanan, Greene, Jasper, and St. Louis Counties each have two Circuit Judges. Jackson County has ten Circuit Judges and the City of St. Louis fourteen.

Salaries of Judges. — The compensation of Judges is regulated by the laws of the State, but like those of all other officers, their salaries cannot be increased nor diminished during the term for which they were elected. Each Judge receives from the State a salary of three thousand five hundred dollars and his expenses in attending court at other places than that in which he lives. The judges of Jackson County receive five thousand dollars and those of St. Louis five thousand five hundred dollars per year.

Courts of Common Pleas. — Four Courts of Common Pleas have been established in the State. They are Courts of Record, “and possess all the powers, perform duties, and are subject to the restrictions” of such courts. The territorial limits of these courts are set forth in the Statutes of the State and are subject to change by the General Assembly. The Clerk



of each Court is elected for a term of four years by the voters of the district. These courts are located at Louisiana, Hannibal, Cape Girardeau, and Sturgeon.

Criminal Courts. — These courts may be established in counties whose population exceeds 50,000. A Judge, who must possess the qualifications of the Circuit Judge, is elected for each court. Criminal Courts have been established in the Fifteenth Judicial Circuit, and in Jackson, Buchanan, and Greene Counties.

The Fifteenth Judicial Circuit. — The jurisdiction of the Criminal Courts of this district is the same as that of the Circuit Court in criminal cases and extends in appellate jurisdiction to all breaches of the peace and to violations of city and town ordinances. It has power to issue, hear, and determine writs of habeas corpus. The Circuit Clerks of the counties composing the circuit are ex-officio Clerks of the Criminal Court. Saline and Lafayette Counties comprise the Fifteenth Judicial Circuit.

Jackson County. — The Judge of the Jackson County Criminal Court is elected for a term of six years by the qualified voters of the county. He must be at least thirty years of age, must have resided in the State one year, and must be a resident of the county. He has the same power in criminal matters as the Circuit Judge, and the Court has exclusive original and appellate jurisdiction of criminal offenses in Jackson County. The Clerk of the Court is elected by the people of the county.

Greene County. — This county has exclusive original jurisdiction of criminal cases in Greene County, with

some exceptions; exclusive appellate jurisdiction in criminal cases appealed from the Justices' Courts and in appeals from Municipal Courts. The Judge is elected by the voters of the county for a term of four years. He has power to issue, hear, and determine writs of habeas corpus; may admit to bail such persons as are entitled thereto; and has the same power in criminal matters as the Circuit Judge. The Clerk of this Court is elected by the people of the county for a term of four years.

The Court of Criminal Correction. — This Court corresponds in rank to the Criminal Courts of the Fifteenth Judicial Circuit, Jackson County, and Greene County. It is located in the City of St. Louis. It has exclusive original jurisdiction of all misdemeanors which are punishable by fine and imprisonment or both. It has appellate jurisdiction in criminal cases appealed from the Justices' Courts of the city, and concurrent jurisdiction with the Police Court in cases of misdemeanor under State law, which are also violations of the city ordinances. It is the duty of the Chief of Police to report the names of persons charged with misdemeanors to the Assistant Prosecuting Attorney. The Judge of the Court is elected for a term of four years and must have the qualifications of the Circuit Judge. A Clerk and a Prosecuting Attorney and his assistant all serve this Court, and are elected by the voters of the city for a term of four years.

Courts of Appeals. — To aid the Supreme Court of the State, three Courts of Appeals have been established: one in Kansas City, one in Springfield, and

one in St. Louis. Each of these Courts has appellate jurisdiction, within the counties of its district. They have superintending control over all inferior Courts of Record in their respective counties. Writs of error may issue from the Supreme Court to these Courts in cases mentioned in the Constitution. The opinion of these Courts must be in writing, and they become a part of their record.

Qualifications of Judges. — Each of these Courts consists of three Judges who are elected by the voters of their respective districts for a term of twelve years, one being elected every four years. The Judges must possess the qualifications of Judges of the Supreme Court and they must be residents of the districts from which they are elected. The Judges of the Courts of Appeals receive salaries of six thousand dollars per year.

Supreme Court. — The Supreme Court is the highest judicial tribunal in the State. It is composed of seven Judges who are elected by the voters of the State for a term of ten years. It meets at the seat of government at Jefferson City, in a building erected by the State at a cost of nearly one half million dollars. The Chief Justice, who is also the presiding officer, is elected by the Court. The Judges receive a salary of seven thousand five hundred dollars per year. All cases are appealed from the Circuit Courts to the Supreme Court of the State when such cases involve a felony, title to land, or an amount of money larger than seven thousand five hundred dollars. All cases are appealed from the Circuit Courts to the Courts of Appeals when they involve a misdemeanor or an

amount of money less than seven thousand five hundred dollars. There are four Commissioners of the Supreme Court of the State, who are elected by, and receive the same salaries as, the Judges.

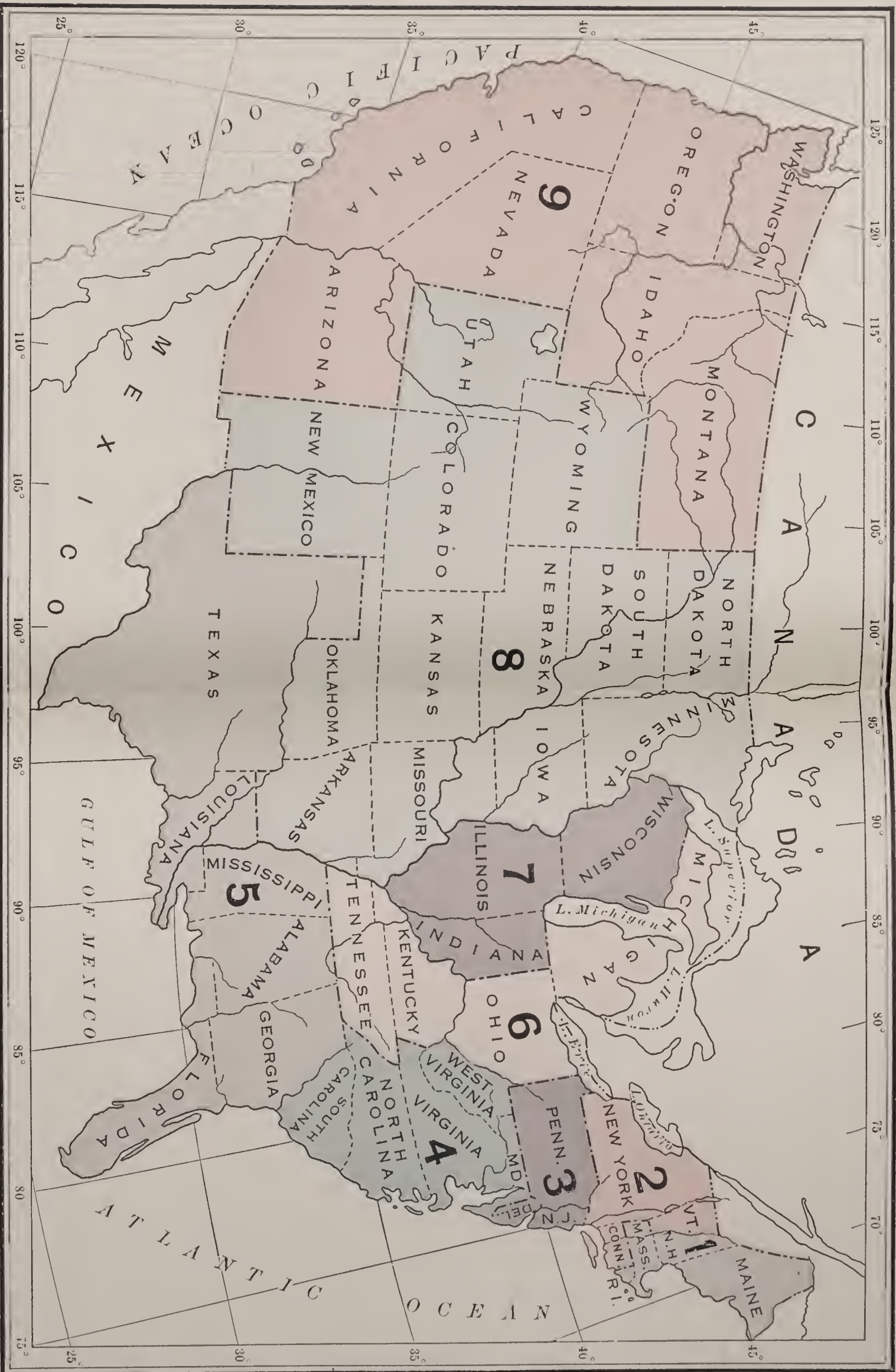
Divisions. — There are two divisions of the Supreme Court: number one, consisting of four Judges, and number two, consisting of three Judges. Number one passes upon civil and equity cases only; number two has jurisdiction in all criminal cases. A majority of Judges in a division constitutes a quorum. All opinions must be in writing, and they constitute a part of the records of the Court. Each division elects its own presiding Judge.

Supreme Court *in Banc*. — The full Court may sit together to hear arguments and determine questions of law, when either division cannot agree upon an opinion, when a division of the Court is equally divided in opinion, when a federal question is involved, and when ordered to do so by one division of the Court.

Qualifications of Judges. — “The Judges of the Supreme Court shall be citizens of the United States, not less than thirty years old, and shall have been citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.” — Constitution.

Jurisdiction. — The jurisdiction of the Supreme Court is largely appellate; that is, it hears cases on appeal from Trial Courts. It may affirm the verdict of the lower court; it may point out its errors, if they have been committed, and send the case back for a new trial; or it may reverse and dismiss the case. It has

JUDICIAL DISTRICTS OF THE UNITED STATES



general superintending control over all other Courts; and may issue certain remedial writs: writs which afford a relief or a remedy, or abate a nuisance.

National Courts. — Missouri is a part of the eighth judicial circuit of the United States, and it contains two of the divisions of the United States District Courts, the eastern district of Missouri and the western district of Missouri. A Judge, an Attorney and his three assistants, and a Marshal are appointed for each district. The eastern district has two divisions, the eastern and the southeastern. The western district has five divisions, the western, the St. Joseph, the southern, the central, and the southwestern. Two sessions of the District Court are held every year in each district. The map on pages 80 and 81 shows the judicial districts of the United States.

QUESTIONS

1. Name the Courts of Record. What must each one of these Courts keep?

2. What is a docket? By whom is it made?

3. All court records in Missouri must be kept in what language? Name some exceptions.

4. Why is a Judge not allowed to sit in a case in which he is interested or related to the parties?

5. What is a jury? Name two kinds.

6. How many men compose a grand jury? By whom is this jury called and how often?

7. Distinguish between grand and petit juries. How and by whom are juries selected?

8. What are the qualifications of the Judges of the Circuit Courts?

9. How many judicial circuits are there in Missouri? Who divided the State into judicial circuits? What is the number of

your judicial circuit? How many Circuit Judges are there in Missouri? What salary does each receive?

10. How many Courts of Common Pleas have been established in the State? Locate them.

11. When may Criminal Courts be established? Where have they been established?

12. What counties compose the Fifteenth Judicial Circuit?

13. Locate the Court of Criminal Correction.

14. How many Courts of Appeals are there in the State? Consult a map of Missouri showing these districts. How many Judges are there in each of these Courts? For what term are the Judges elected? State the salary received.

15. How many Judges compose the Supreme Court? For what term are they elected? What salary does each receive?

16. How many Commissioners belong to the Supreme Court? By whom are they elected?

17. What is meant by the Supreme Court *in Banc*?

18. How many Judges compose the Supreme Court of the United States?

19. What is the nature of the jurisdiction of the Supreme Court?

20. What is meant by appellate jurisdiction? Original jurisdiction?

21. Into how many judicial districts is the United States divided? Missouri is a part of what judicial circuit?

22. What cases are appealed from the Circuit Courts to the Supreme Court of the State? What cases are appealed from the Circuit Courts to the Courts of Appeals?

23. If a case was appealed from Boone County, Missouri, to which one of the three Courts of Appeals would it be taken?

24. What court would have original jurisdiction in a case between two counties of the State?

CHAPTER X

SUFFRAGE AND ELECTIONS

SUFFRAGE or the right to vote does not belong to all citizens: children never vote, though they may be citizens under the Constitution; women vote only in certain states; and others vote only when the right is conferred by law. In some states none but a citizen is allowed the ballot, while in other states persons are given the right to vote before they have completed their citizenship. With few exceptions the right to vote is limited to male citizens twenty-one years of age. Sometimes additional qualifications, which limit the number of men who vote, are prescribed. The whole question is regulated by the State Constitution and State laws; each State prescribes its own qualifications and manages its own elections. The main features of the Missouri election laws are presented in this chapter.

Voting Classes. — Two classes of persons may vote under the laws of Missouri, viz.:

1. Male citizens of the United States.
2. Males of foreign birth who have declared their intention of becoming citizens, not less than one year nor more than five years before offering to vote.

Qualifications. — They must, however, possess the following qualifications:

1. They must be twenty-one years of age or over.
2. They must have resided in the State one year immediately preceding the election at which they offer to vote.
3. They must have resided in the county, city, or town at least sixty days immediately preceding the election. (Article VIII, Section 2, State Constitution.)

Exceptions. — Certain classes are denied the right to vote in this State :

1. Persons kept at a public poorhouse or asylum, except inmates of the Federal and Confederate homes in this State, who may vote at all elections.
2. All persons convicted of felonies or other infamous crimes ; and persons convicted of misdemeanors in connection with the exercise of suffrage.
3. Officers, soldiers, and marines in the army or navy of the United States.
4. Persons confined in public prisons.

Protection to Voters. — Voters shall in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom. (Article VIII, Section 4, State Constitution.) This is a safeguard against the imprisonment of voters with a view to the defeat of an honest election.

Time of Elections. — The general election is held on the first Tuesday after the first Monday in November of the even numbered years, as in 1906, 1908, etc. The time may be changed by the General Assembly by a vote of two thirds of each house. City, town, and school elections are held in the spring of the year. Special elections to fill vacancies may be held at other times, the time being fixed by the Governor when he issues the call.

Qualifications for Office. — In order to hold office in Missouri, civil or military, a person must be a citizen of the United States, and a resident of the State one year immediately preceding his election or appointment. No one holding any office of profit in the United States can be elected or appointed to any office under this State. An officer who does not do his duty may be removed from office.

Australian Ballot System. — The law governing elections in this State is a modification of the Australian ballot system. Its essential features are its provision for a primary election in the nomination of candidates, the registration of voters in the larger cities, an official ticket, and a secret ballot.

Registration. — In cities of from twenty-five thousand to one hundred thousand inhabitants a Registrar of Voters is elected, whose duty it is to register all legal voters. All persons are listed who take the prescribed oath and possess the qualifications of electors as prescribed in the laws and the Constitution of Missouri. Special days are appointed and announced by the County Court, and the registration is made by the officers at the various voting places in the election districts. After making the registration, the books are returned by the officers to the County Clerk to be kept by him subject to public inspection. In cities of one hundred thousand or more inhabitants a Board of Election Commissioners is appointed by the Governor. This Board manages all matters concerning the elections, including the registration of voters. It divides the city into election precincts, appoints the clerks and judges of elections, selects the places of

registration, making publication of them ten days in advance. It makes a general registration every presidential year, and every election year it revises the lists as directed by law. The same requirements are imposed here as in the case of smaller cities.

State Primary. — All candidates for elective offices (except for a few minor places such as town and school offices) are nominated at a general primary which is held on the first Tuesday of August on even years. Each candidate, at least sixty days before the primary, must file a written declaration stating on what ticket he wishes to run and pledging that he will qualify if elected. He also deposits a small amount of money with his county or State committee as evidence of good faith.

Judges for the primary are appointed by the County Court, and the same laws that are used at the general election are used in the primary. The voters at the August primary also select committeemen. These various township and ward committeemen constitute the party organization. The primary law also provides that the party platform shall be written by the nominees for State offices — Congressmen, State Senators, and Representatives.

Official Ballot. — By order of the County Court, the County Clerk prints the official ballot of every election held in his county, including in it the names of the candidates. The name of the political party making the nominations appears in the heading of the ballot, and it must contain the names of the candidates nominated by that party, and no other. Under each candidate's name is left a blank space large enough

to contain a written name. These ballots must be printed on the same kind of paper and all must be the same size, "so that they may not be distinguished the one from the other by the backs of them." The Clerk prints one hundred of these for every fifty or fraction of fifty voters in each party. At the proper time the ballots are delivered to the Judge.

Judges and Clerks. — Outside the large cities the County Court establishes the election districts and precincts, locating one or more in each township of the county. The County Court appoints four judges of election for each precinct and the judges in turn appoint four clerks. The judges and clerks must be able to read and write and must be qualified to vote in that election. The judges manage the election, receive the ballots as they are prepared by the voters, number them, and place them in the ballot boxes; and they finally count the votes cast in their respective districts, and make returns to the County Clerk. The clerks keep a record of the voting according to forms prescribed by law.

The Polls. — The polls or voting places are opened by the judges at six o'clock in the morning and continue open till seven o'clock in the evening, unless the sun sets after seven o'clock. In this case the polls remain open until sunset, except in cities having more than twenty-five thousand inhabitants, in which the polls at all times open at six o'clock in the morning and continue open until seven o'clock in the evening. During this time all of the voting must be done. Poll-books, tally-sheets and ballot boxes are furnished by the County Court. Booths are provided for the voters

so that they are screened from observation while they prepare their ballots. No one is allowed to approach within five feet of the ballot boxes or the booths except the person who is voting.

Voting. — The judges give each voter one ballot of each political party, upon the back of which will be found the names or initials of two of the judges. The voter enters the booth, prepares his ballot, making such changes and substitutions as he desires, folds his ticket so as to conceal the face of it, and delivers it to one of the receiving judges, who numbers it and places it in the ballot box. All rejected tickets are returned to the other receiving judge. Only one person is allowed in a booth at a time, and only the judges and clerks and the persons who are preparing their ballots are permitted behind the railing. If a voter is unable to prepare his ballot from inability to read and write or from any other cause, he may have the judge prepare it under his direction.

Returns. — Within two days after the election, one poll-book is delivered to the County Clerk who, by the aid of two Justices of the Peace or two Judges of the County Court, examines and casts up the votes given to each candidate. The County Clerk then issues certificates of election to all candidates for county offices who have received the highest number of votes. He also transmits to the Secretary of State an abstract of the votes cast for all other candidates. The Secretary of State counts them, with the exception of those for State offices, and issues certificates of election to the successful candidates for Congress. He certifies to the Governor the names of the Judges elected to

the Supreme Court, the Circuit Courts, and the Courts of Appeals. Within two days after the meeting of the Legislature, the Secretary of State lays before each house a list of the members elected thereto. The returns for the State officers are cast up and counted by the General Assembly, the two houses meeting in joint session.

Corrupt Practices. — All forms and grades of bribery in connection with primaries or elections are prohibited under very severe penalties. The use of force, threats, violence, or restraint, in order to influence in any way the vote of a person, is declared to be a misdemeanor punishable by imprisonment in the county jail. The sums of money that may be expended in legitimate expenses by any candidate are limited by law, the amounts varying with the number of votes cast in the election. Each candidate must file, under oath, a detailed statement of all his expenses in the campaign. It is unlawful for any person to treat to or give away liquor between the hours of 5 A.M. and 7 P.M. on any general or primary election day.

QUESTIONS AND SUGGESTIONS

Make a careful study of Article VIII of the Constitution of the State of Missouri, as this chapter on suffrage and elections is principally based upon it. In fact, the information contained in this chapter, except that which is statutory law, is taken from this article.

1. What is meant by the word "suffrage"? What two classes of persons may vote under the laws of Missouri?

2. If a Frenchman should come to Missouri and declare his intentions of becoming a citizen, how much time would elapse before he would have the right to vote?

3. Name two qualifications of a voter in this State.
4. If a man should move from Springfield to Kansas City, how much time would elapse before he would be eligible to vote in Kansas City?
5. If a man had served two years in the State penitentiary, would he have the right to vote?
6. What protection have voters on election days?
7. When is the general election held? How may this time be changed? When are other elections held?
8. How is the registration of voters provided for in cities of twenty-five thousand inhabitants? Of one hundred thousand or more inhabitants?
9. When is the State primary held?
10. Who makes the official ballot?
11. By whom are the judges and clerks of elections named?
12. When do the polls open and close on election days?
13. After the election is held and the votes cast, to whom do the judges make their report? To whom does the County Clerk make his report of the elections of all officers except those of the county?
14. Who passes upon the returns of the State Senators and Representatives?
15. Dramatize an election, using the pupils in the room for voters, judges, clerks, and candidates. Secure if possible ballots that have been printed for use in the regular election, and have the children vote for some one whose name appears on these ballots. Follow as nearly as possible the procedure used in the regular election.

CHAPTER XI

TAXATION AND REVENUE

OFFICERS are public servants appointed to do a specific kind of work. They must be remunerated for their time and for their skill and efficiency. Salaries must be provided for them, public buildings must be erected, offices equipped, and supplies furnished; hence, the necessity of an economical system of taxation to provide money to meet these obligations. In this chapter are presented the fundamental principles of the revenue system.

Fundamental Principles. — A few fundamental principles taken from the Constitution relating to the taxing power are as follows:

1. The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes. (Article X, Section 1, State Constitution.)

2. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly. (Article X, Section 2, State Constitution.) For many years there has been a tendency to increase taxes derived from these sources. In cities franchise taxes have come to be valuable sources of revenue.

3. Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws. (Article X, Section 3, State Constitution.)

4. All property subject to taxation shall be taxed in proportion to its value. (Article X, Section 4, State Constitution.)

Purposes of Taxation. — The purposes for which taxes are collected are stated in the Statutes as “the support of the Government of the State; payment of the public debt, and advancement of the public interest.” All property should contribute to these ends, and all citizens may take a pride in their attainment.

Exemptions. — *Article X, Section 6, property exempt from taxation.* — The property, real and personal, of the State, counties, and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: *Provided*, That such exemptions shall be only by general law.

Place of Assessment. — All personal property is assessed in the county where the owner resides. It matters not if it be in another State. This includes all

notes, bonds, and other evidences of debt. The evident intent of this provision is to discourage tax-dodging on this class of property. Personal property belonging to manufacturing firms and other corporations must be assessed in the county where the property is located.

Restrictions and Limitations. — Limitations have been imposed by the Constitution upon County Courts and other courts, with a view to guarding against the abuse of the taxing power. The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the one hundred dollars' valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents. For county purposes the rate ranges from thirty-five to fifty cents on the one hundred dollars' valuation, varying with the population of the county. The annual rate for cities and towns varies with the population and ranges from twenty-five to one hundred cents on the one hundred dollars. The annual rate for school purposes is forty cents. It may be increased by a vote of the people to one dollar in cities and towns, and to sixty-five cents in other districts. In addition to the above rate, the town schools may make a levy of one hundred cents on the one hundred dollars for building purposes. These restrictions and limitations have protected the people of many sections against extravagance. (Article X, Section 11, State Constitution.)

Levying Taxes. — It is the duty of the Assessor of the city, town, county, or township to list and assess all property within his district. The amount of

personal property may be ascertained by a personal canvass of his territory. The amount of real estate is secured from the county records, but the values assigned must be based upon personal knowledge or inspection. With all of this information before them, the County Court and other authorities can easily determine and fix the rate of taxation.

Correcting Errors. — A Board of Equalization for the State and one for each county have been provided, whose duty it is to equalize the assessments made by the various Assessors. The State Board adjusts and equalizes the values as reported from the various counties, while each County Board hears complaints from property owners and tries to secure a uniform assessment of values.

Other Sources. — There are other sources of revenue in the State and county besides the general property tax. Special taxes, fees collected for the services of certain officers, and licenses of various kinds are sources of a large income. Corporations such as railroads, and express, bridge, and telephone companies pay large sums of money as taxes. Large sums of money are derived from the earnings of the penitentiary and the eleemosynary institutions. The General Assembly has found many sources of revenue. The direct taxes paid by all the people of the State for State purposes are less than three million dollars per year, a very small percentage of the total amount of money collected.

SOME MODERN PROGRESSIVE LAWS OF MISSOURI

1. The Initiative and Referendum.
2. Factory and mine inspection laws.

3. Compulsory school law.
4. Apportionments of State school moneys on teachers-and-attendance basis.
5. Provision for a State and county highway engineer.
6. Thorough bank examinations.
7. Modern certificate law for teachers.
8. Australian ballot system.
9. Anti-lobby law.
10. Gradual abolition of convict labor.
11. Capital punishment in hands of jury.
12. Parole system for convicts.
13. Compulsory safety appliances for railroads.
14. General primary law.
15. Child labor law.
16. Tax Commission — 1917.
17. Capital punishment abolished — 1917.

CONSTITUTION
OF THE
STATE OF MISSOURI

1901.

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PREAMBLE.

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do, for the better government of the State, establish this Constitution.

ARTICLE I.

BOUNDARIES.

Section 1. Boundaries and jurisdiction. — The boundaries of the State, as heretofore established by law, are hereby ratified and confirmed. The State shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the State, so far as the said rivers shall form a common boundary to this State and any other State or States; and the river Mississippi and the navigable rivers and waters leading to the same shall be common highways, and forever free to the citizens of this State and of the United States, without any tax, duty, impost or toll therefore, imposed by this State.

ARTICLE II.

SECTION

BILL OF RIGHTS.

1. Origin of political power.
2. Right to regulate internal affairs, and to abolish existing form of government.
3. Missouri a free and independent state — right of local self-government.
4. Purpose of constitutional government.
5. Religious liberty and freedom of conscience guaranteed.
6. Religious worship not compulsory.
7. No aid or preference given to churches.
8. Religious corporations established under a general law, may hold certain real estate.
9. Elections to be free and open.
10. Courts shall be open to every person.
11. Security from searches and seizures.
12. Criminal prosecutions to be by indictment or information.
13. Treason defined — corruption of blood.
14. Freedom of speech allowed — truth of publication may be given in evidence.
15. *Ex post facto* laws, and laws making irrevocable grants of special privileges, forbidden.
16. No imprisonment for debt, except, when.
17. Right to keep and bear arms.
18. Officers must devote their time to the duties of their offices.
19. Collectors and receivers, not eligible to office, when.
20. Private property taken for private use — public use a judicial question.
21. Private property taken for public use — compensation.
22. Criminal prosecutions, right of accused.
23. No self-crimination, nor twice in jeopardy.
24. Bail allowed, when.
25. Excessive bail and fines, and cruel punishments, forbidden.
26. Writ of *habeas corpus* shall not be suspended.
27. Military subject to civil power.
28. Trial by jury — majority verdicts — grand jury to consist of twelve men.
29. Right to assemble and petition guaranteed.
30. Due process of law.
31. Slavery and involuntary servitude forbidden.
32. Reservation of rights.

In order to assert our rights, acknowledge our duties, and proclaim the principles on which our government is founded, we declare:

Section 1. Political power, origin of. — That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sect. 2. Internal affairs, regulation of. — That the people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their Constitution and form of government whenever they may deem it necessary to their safety and happiness: *Provided*, Such change be not repugnant to the Constitution of the United States.

Sect. 3. Local self-government not to be impaired. — That Missouri is a free and independent State, subject only to the Constitution of the United States; and as the preservation of the States and the maintenance of their governments are necessary to an indestructible Union, and were intended to co-exist with it, the Legislature is not authorized to adopt, nor will the people of this State ever assent to any amendment or change of the Constitution of the United States which may in any wise impair the right of local self-government belonging to the people of this State.

Sect. 4. Purpose of government — natural rights of persons. — That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty and the enjoyment of the gains of their own industry; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails of its chief design.

Sect. 5. Religious freedom — belief not to affect citizen — liberty of conscience. — That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no person can, on account of his religious opinions, be rendered ineligible to any office of trust or profit under this State, nor be disqualified from testifying, or from serving as a juror; that no human authority can control or interfere with the rights of conscience; that no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, nor to justify practices inconsistent with the good order, peace or safety of this State, or with the rights of others.

Sect. 6. Religion, individual support of not compulsory. — That no person can be compelled to erect, support or attend any place or system

of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same.

Sect. 7.. Religion, State must not aid church. — That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship.

Sect. 8. Religious corporation may be established for one purpose only. — That no religious corporation can be established in this State, except such as may be created under a general law for the purpose only of holding the title to such real estate as may be prescribed by law for church edifices, parsonages and cemeteries.

Sect. 9. Elections must be free and open. — That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sect. 10. Courts of justice must be open. — The courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice should be administered without sale, denial or delay.

Sect. 11. Security from search and seizure, requisites of warrant. — That the people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be; nor without probable cause, supported by oath or affirmation reduced to writing.

Sect. 12. Criminal prosecutions must be by indictment or information. — No person shall be prosecuted criminally for felony or misdemeanor otherwise than by indictment or information, which shall be concurrent remedies, but this shall not be construed to apply to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger.

Sect. 13. Treason defined, no attainder, estates of suicides not forfeited. — That treason against the State can consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; that no person can be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on his confession in open court; that no person can be attainted of treason or felony by the General Assembly; that no conviction can work corruption of blood or

forfeiture of estate; that the estates of such persons as may destroy their own lives shall descend or vest as in cases of natural death; and when any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

Sect. 14. Freedom of speech, press — libel, truth in justification—duty of jury. — That no law shall be passed impairing the freedom of speech; that every person shall be free to say, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel the truth thereof may be given in evidence, and the jury, under the direction of the court, shall determine the law and the fact.

Sect. 15. Ex post facto laws, etc., prohibited. — That no *ex post facto* law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be passed by the General Assembly.

Sect. 16. No imprisonment for debt. — That imprisonment for debt shall not be allowed, except for the non-payment of fines and penalties imposed for violation of law.

Sect. 17. Right to bear arms, when. — That the right of no citizen to keep and bear arms in defense of his home, person and property, or in aid of the civil power, when thereto legally summoned, shall be called in question; but nothing herein contained is intended to justify the practice of wearing concealed weapons.

Sect. 18. Officers to attend personally to duties. — That no person elected or appointed to any office or employment of trust or profit under the laws of this State, or any ordinance of any municipality in this State, shall hold such office without personally devoting his time to the performance of the duties to the same belonging.

Sect. 19. Collectors, receivers, etc., in default, ineligible to office. — That no person who is now or may hereafter become a collector or receiver of public money, or assistant or deputy of such collector or receiver, shall be eligible to any office of trust or profit in the State of Missouri under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all the public money for which he may be accountable.

Sect. 20. Private property not to be taken for private use — exceptions — public use a judicial question. — That no private property can be taken for private use, with or without compensation, unless by the consent of the owner, except for private ways of necessity, and except for drains and ditches across the lands of others for agricultural and sanitary purposes, in such manner as may be prescribed by law; and that whenever an attempt is made to take private property for a use

alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and as such judicially determined, without regard to any legislative assertion that the use is public.

Sect. 21. Private property for public use — compensation. — That private property shall not be taken or damaged for public use without just compensation. Such compensation shall be ascertained by a jury or board of commissioners of not less than three freeholders, in such manner as may be prescribed by law; and until the same shall be paid to the owner, or into court for the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested. The fee of land taken for railroad tracks without consent of the owner thereof shall remain in such owner, subject to the use for which it is taken.

Sect. 22. Rights of accused in criminal prosecutions. — In criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy, public trial by an impartial jury of the county.

Sect. 23. Accused not compelled to testify — twice in jeopardy, etc. — That no person shall be compelled to testify against himself in a criminal cause, nor shall any person, after being once acquitted by a jury, be again, for the same offense, put in jeopardy of life or liberty; but if the jury to which the question of his guilt or innocence is submitted fail to render a verdict, the court before which the trial is had may, in its discretion, discharge the jury and commit or bail the prisoner for trial at the next term of court, or, if the state of business will permit, at the same term; and if judgment be arrested after a verdict of guilty on a defective indictment, or if judgment on a verdict of guilty be reversed for error in law, nothing herein contained shall prevent a new trial of the prisoner on a proper indictment, or according to correct principles of law.

Sect. 24. Bail, when allowed. — That all persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Sect. 25. Excessive bail and fines and unusual punishment forbidden. — That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sect. 26. Habeas corpus. — That the privilege of the writ of *habeas corpus* shall never be suspended.

Sect. 27. Military subordinate to civil power. — That the military shall always be in strict subordination to the civil power; that no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law,

Sect. 28. Trial by jury inviolate — majority verdicts — grand jury, twelve men. — The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but a jury for the trial of criminal or civil cases, in courts not of record, may consist of less than twelve men, as may be prescribed by law; and that a two-thirds majority of such number prescribed by law concurring may render a verdict in all civil cases. And that in the trial by jury of all civil cases in courts of record, three-fourths of the members of the jury concurring may render a verdict. Hereafter, a grand jury shall consist of twelve men, any nine of whom concurring may find an indictment or a true bill: *Provided, however,* that no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime.

Sect. 29. Right to assemble and petition. — That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

Sect. 30. Due process of law. — That no person shall be deprived of life, liberty or property without due process of law.

Sect. 31. Slavery prohibited. — That there cannot be in this State either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

Sect. 32. Rights reserved. — The enumeration in this Constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE III.

THE DISTRIBUTION OF POWERS.

Three departments of government. — The powers of government shall be divided into three distinct departments — the legislative, executive and judicial — each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others, except in the instances in this Constitution expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION

1. Vested in general assembly.

REPRESENTATION AND APPORTIONMENT.

2. Time of electing representatives — ratio of apportionment.
3. Division of counties into representative districts.
4. Qualifications of representatives.
5. Thirty-four senators — senatorial districts — term.
6. Qualifications of senators — division of counties into senatorial districts.
7. Rule of apportionment for senators and representatives, when and how made.
8. Number of representatives, how distributed, until apportionment.
9. Districts may be altered — contiguity.
10. Senators and representatives, when elected.
11. Senators and representatives cannot hold another office — certain officers not eligible.
12. Removal of residence vacates office.
13. Writs of election to fill vacancies.
14. Oath of office, refusal to take, penalty for violation of.
15. Pay of members and employees — expenses of committees.
16. Organization and rules — punishment of disorderly members and other persons.
17. Quorum — compelling attendance of absent members.
18. Sessions must be public.
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45. Grants of public money prohibited, except in case of public calamity.
46. Municipalities cannot lend their credit nor become stockholders — firemen's fund.
47. Extra allowance to officers and payment of unauthorized contracts prohibited.
48. Subscriptions by the state prohibited.
49. State lien on railroads not to be released.
50. Release of debts to State, county or municipality prohibited.
51. Payment of the war debt.
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53. Notice of application for the enactment of local laws.
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55. Seat of government to remain at Jefferson City.

Section 1. The Legislative power, subject to the limitations herein contained, shall be vested in a Senate and House of Representatives, to be styled "The General Assembly of the State of Missouri."

REPRESENTATION AND APPORTIONMENT.

Sect. 2. Representatives, term, apportionment. — The House of Representatives shall consist of members to be chosen every second year by the qualified voters of the several counties, and apportioned in the following manner: The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of inhabitants of the State, as ascertained by the last decennial census of the United States, by the number two hundred. Each county having one ratio, or less, shall be entitled to one Representative; each county having two and a half times said ratio shall be entitled to two Representatives; each county having four times said ratio shall be entitled to three Representatives; each county having six times such ratio shall be entitled to four Representatives, and so on above that number, giving one additional member for every two and a half additional ratios.

Sect. 3. Counties, division of into districts. — When any county shall be entitled to more than one Representative, the county court shall cause such county to be subdivided into districts of compact and contiguous territory, corresponding in number to the Representatives to which such county is entitled, and in population as nearly equal as may be, in each of which the qualified voters shall elect one Representative, who shall be a resident of such district: *Provided*, That when any county shall be entitled to more than ten Representatives, the

circuit court shall cause such county to be subdivided into districts, so as to give each district not less than two nor more than four Representatives, who shall be residents of such district — the population of the districts to be proportioned to the number of Representatives to be elected therefrom.

Sect. 4. Representatives — qualifications. — No person shall be a member of the House of Representatives who shall not have attained the age of twenty-four years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State two years, and an inhabitant of the county or district which he may be chosen to represent one year next before the day of his election, if such county or district shall have been so long established, but if not, then of the county or district from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election.

Sect. 5. Senators, number — term — Senatorial districts. — The Senate shall consist of thirty-four members, to be chosen by the qualified voters of their respective districts for four years. For the election of Senators the State shall be divided into convenient districts, as nearly equal in population as may be, the same to be ascertained by the last decennial census taken by the United States.

Sect. 6. Senators, qualifications — counties divided, when. — No person shall be a Senator who shall not have attained the age of thirty years, who shall not be a male citizen of the United States, who shall not have been a qualified voter of this State three years, and an inhabitant of the district which he may be chosen to represent one year next before the day of his election, if such district shall have been so long established, but if not, then of the district or districts from which the same shall have been taken, and who shall not have paid a State and county tax within one year next preceding the election. When any county shall be entitled to more than one Senator, the circuit court shall cause such county to be subdivided into districts of compact and contiguous territory, and of population as nearly equal as may be, corresponding in number with the Senators to which such county may be entitled; and in each of these one Senator, who shall be a resident of such district, shall be elected by the qualified voters thereof.

Sect. 7. Apportionment, rule of — when and how made. — Senators and Representatives shall be chosen according to the rule of apportionment established in this Constitution, until the next decennial census by the United States shall have been taken, and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every ten years thereafter

upon the basis of the United States census; or if such census be not taken, or is delayed, then on the basis of a State census; such apportionment to be made at the first session of the General Assembly after each such census: *Provided*, That if at any time, or from any cause, the General Assembly shall fail or refuse to district the State for Senators, as required in this section, it shall be the duty of the Governor, Secretary of State and Attorney-General, within thirty days after the adjournment of the General Assembly on which such duty devolved, to perform said duty, and to file in the office of the Secretary of State a full statement of the districts formed by them, including the names of the counties embraced in each district, and the numbers thereof; said statement to be signed by them, and attested by the Great Seal of the State, and upon the proclamation of the Governor, the same shall be as binding and effectual as if done by the General Assembly.

Sect. 8. Representatives, number of until apportionment. — Until an apportionment of Representatives can be made in accordance with the provisions of this article, the House of Representatives shall consist of one hundred and forty-three members, which shall be divided among the several counties of the State as follows: The county of St. Louis shall have seventeen; the county of Jackson four; the county of Buchanan three; the counties of Franklin, Greene, Johnson, Lafayette, Macon, Marion, Pike and Saline, each two, and each of the other counties in the State one.

Sect. 9. Districts, alteration, contiguity. — Senatorial and Representative districts may be altered, from time to time, as public convenience may require. When any Senatorial district shall be composed of two or more counties, they shall be contiguous; such districts to be as compact as may be, and in the formation of the same no county shall be divided.

Sect. 10. Senators and Representatives, when elected. — The first election of Senators and Representatives, under this Constitution, shall be held at the general election in the year one thousand eight hundred and seventy-six, when the whole number of Representatives, and the Senators from the districts having odd numbers, who shall compose the first class, shall be chosen; and in one thousand eight hundred and seventy-eight, the Senators from the districts having even numbers, who shall compose the second class, and so on at each succeeding general election, half the Senators provided for by this Constitution shall be chosen.

Sect. 11. Members of General Assembly cannot hold other offices — certain officers not eligible. — No Senator or Representative shall, during the term for which he shall have been elected, be appointed to

any office under this State, or any municipality thereof; and no member of Congress or person holding any lucrative office under the United States, or this State, or any municipality thereof (militia officers, justices of the peace and notaries public excepted), shall be eligible to either house of the General Assembly, or remain a member thereof, after having accepted any such office or seat in either house of Congress.

Sect. 12. Office vacated by removal of residence. — If any Senator or Representative remove his residence from the district or county for which he was elected, his office shall thereby be vacated.

Sect. 13. Writs of election to fill vacancy. — Writs of election to fill such vacancies as may occur in either house of the General Assembly shall be issued by the Governor.

Sect. 14. Oath of office, where administered, refusal to take, violation of. — Every Senator and Representative elect, before entering upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, that I will support the Constitution of the United States and of the State of Missouri, and faithfully perform the duties of my office; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law." The oath shall be administered in the halls of their respective houses, to the members thereof, by some judge of the Supreme court, or the circuit court, or the county court of Cole County, or after the organization by the presiding officer of either house, and shall be filed in the office of the Secretary of State. Any member of either house refusing to take said oath or affirmation shall be deemed to have thereby vacated his office, and any member convicted of having violated his oath or affirmation shall be deemed guilty of perjury, and be forever thereafter disqualified from holding any office of trust or profit in this State.

Sect. 15. Pay of members and employes — expenses of committees. — The members of the General Assembly shall severally receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not to exceed five dollars per day for the first seventy days of each session, and after that not to exceed one dollar per day for the remainder of the session, except the first session held under this Constitution, and during revising sessions, when they may receive five dollars per day for one hundred and twenty days, and one dollar per day for the remainder of such sessions. In addition to *per diem*, the members shall be entitled to receive traveling expenses or mileage, for any regular and extra session not greater than now provided by law; but no member shall be entitled to traveling ex-

penses or mileage for any extra session that may be called within one day after an adjournment of a regular session. Committees of either house, or joint committees of both houses, appointed to examine the institutions of the State, other than those at the seat of government, may receive their actual expenses, necessarily incurred while in the performance of such duty; the items of such expenses to be returned to the chairman of such committee, and by him certified to the State Auditor, before the same, or any part thereof, can be paid. Each member may receive at each regular session an additional sum of thirty dollars, which shall be in full for all stationery used in his official capacity, and all postage, and all other incidental expenses and perquisites; and no allowance or emoluments, for any purpose whatever, shall be made to or received by the members, or any member of either house, or for their use, out of the contingent fund or otherwise, except as herein expressly provided; and no allowance or emolument, for any purpose whatever, shall ever be paid to any officer, agent, servant or employe of either house of the General Assembly, or of any committee thereof, except such *per diem* as may be provided for by law, not to exceed five dollars.

Sect. 16. Organization and rules — may punish members and other persons. — Each house shall appoint its own officers; shall be sole judge of the qualifications, election and returns of its own members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person, not a member, who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all members elect, may expel a member; but no member shall be expelled a second time for the same cause.

Sect. 17. Majority a quorum, absent members. — A majority of the whole number of members of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

Sect. 18. Sessions must be public. — The sessions of each house shall be held with open doors, except in cases which may require secrecy.

Sect. 19. Time of meeting — biennial sessions. — The General Assembly elected in the year one thousand eight hundred and seventy-six shall meet on the first Wednesday after the first day of January, one thousand eight hundred and seventy-seven; and thereafter the

General Assembly shall meet in regular session once only in every two years; and such meeting shall be on the first Wednesday after the first day of January next after the elections of the members thereof.

Sect. 20. Adjournment for over three days final. — Every adjournment or recess taken by the General Assembly for more than three days shall have the effect of and be an adjournment *sine die*.

Sect. 21. Adjournment for three days or less. — Every adjournment or recess taken by the General Assembly for three days or less shall be construed as not interrupting the session at which they are had or taken, but as continuing the session for all the purposes mentioned in section fifteen of this article.

Sect. 22. Adjournments — consent, when required. — Neither house shall, without the consent of the other, adjourn for more than two days at any one time, nor to any other place than that in which the two houses may be sitting.

LEGISLATIVE PROCEEDINGS.

Sect. 23. Style of laws — enacting clause. — The style of the laws of this State shall be: “*Be it enacted by the General Assembly of the State of Missouri, as follows.*”

Sect. 24. Laws passed by bills, extent of amendments. — No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

Sect. 25. Origin of bills — must be read on three days. — Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house.

Sect. 26. Bills must be reported and printed. — No bill shall be considered for final passage unless the same has been reported upon by a committee and printed for the use of the members.

Sect. 27. Bills must contain but one subject — exceptions — title. — No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and except bills passed under the third subdivision of section forty-three of this article) shall contain more than one subject, which shall be clearly expressed in its title.

Sect. 28. Amendments to be incorporated in bill and printed — committee on printing and engrossment to report. — All amendments adopted by either house to a bill pending and originating in the same shall be incorporated with the bill by engrossment, and the bill as thus engrossed shall be printed for the use of the members before its final passage. The engrossing and printing shall be under the supervision

of a committee, whose report to the house shall set forth, in writing, that they find the bill truly engrossed, and that the printed copy furnished to the members is correct.

Sect. 29. Proceedings when bills passed by one house are amended by the other. — If a bill passed by either house be returned thereto, amended by the other, the house to which the same is returned shall cause the amendment or amendments so received to be printed under the same supervision as provided in the next preceding section, for the use of the members before final action on such amendments.

Sect. 30. Final vote on bills, yeas and nays. — No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal, and a majority of the members elected to each house be recorded thereon as voting in its favor.

Sect. 31. Vote on amendments and reports of conference committees. — No amendment to bills by one house shall be concurred in by the other, except by a vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted in either house only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journal.

Sect. 32. Act revived or re-enacted, how. — No act shall be revived or re-enacted by mere reference to the title thereof, but the same shall be set forth at length, as if it were an original act.

Sect. 33. Act amended, how. — No act shall be amended by providing that designated words thereof be stricken out, or that designated words be inserted, or that designated words be stricken out and others inserted in lieu thereof; but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those inserted in lieu thereof, together with the act or section amended, shall be set forth in full as amended.

Sect. 34. Motion to reconsider — bill on final passage. — When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the house proceeds to any other business.

Sect. 35. Laws take effect, when — emergency, vote required. — No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of

an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journal.

Sect. 36. Bill signed by presiding officers — members may object — proceedings. — No bill shall become a law until the same shall have been signed by the presiding officer of each of the two houses in open session; and before such officer shall affix his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that, if no objections be made, he will sign the same to the end that it may become a law. The bill shall then be read at length, and if no objection be made, he shall, in presence of the house, in open session, and before any other business is entertained, affix his signature, which fact shall be noted on the journal, and the bill immediately sent to the other house. When it reaches the other house, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceedings shall thereupon be observed, in every respect, as in the house in which it was first signed. If in either house any member shall object that any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the Constitution has been violated in its passage, such objection shall be passed upon by the house, and if sustained, the presiding officer shall withhold his signature; but if such objection shall not be sustained, then any five members may embody the same, over their signatures, in a written protest, under oath, against the signing of the bill. Said protest, when offered in the house, shall be noted upon the journal, and the original shall be annexed to the bill to be considered by the Governor in connection therewith.

Sect. 37. Bills presented to Governor for approval. — When the bill has been signed, as provided for in the preceding section, it shall be the duty of the Secretary of the Senate, if the bill originated in the Senate, and of the Chief Clerk of the House of Representatives, if the bill originated in the House, to present the same in person, on the same day on which it was signed as aforesaid, to the Governor, and enter the fact upon the journal. Every bill presented to the Governor, and returned within ten days to the house in which the same originated, with the approval of the Governor, shall become a law, unless it be in violation of some provision of this Constitution.

Sect. 38. Proceedings when a bill is returned without approval. — Every bill presented as aforesaid, but returned without the approval of

the Governor, and with his objections thereto, shall stand as reconsidered in the house to which it is returned. The house shall cause the objections of the Governor to be entered at large upon the journal, and proceed, at its convenience, to consider the question pending, which shall be in this form: " Shall the bill pass, the objections of the Governor thereto notwithstanding? " The vote upon this question shall be taken by yeas and nays, and the names entered upon the journal, and if two-thirds of all the members elected to the house vote in the affirmative, the presiding officer of that house shall certify that fact on the roll, attesting the same by his signature, and send the bill, with the objections of the Governor, to the other house, in which like proceedings shall be had in relation thereto; and if the bill receive a like majority of the votes of all the members elected to that house, the vote being taken by yeas and nays, the presiding officer thereof shall, in like manner, certify the fact upon the bill. The bill thus certified shall be deposited in the office of the Secretary of State, as an authentic act, and shall become a law in the same manner and with like effect as if it had received the approval of the Governor.

Sect. 39. Failure of Governor to approve or return bill — proceedings. — Whenever the Governor shall fail to perform his duty, as prescribed in section 12, Article V of this Constitution, in relation to any bill presented to him for his approval, the General Assembly may, by joint resolution, reciting the fact of such failure and the bill at length, direct the Secretary of State to enroll the same as an authentic act, in the archives of the State, and such enrollment shall have the same effect as an approval by the Governor: *Provided*, That such joint resolution shall not be submitted to the Governor for his approval.

Sect. 40. Revision of the laws. — Within five years after the adoption of this Constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested and promulgated in such manner as the General Assembly shall direct; and a like revision, digest and promulgation shall be made at the expiration of every subsequent period of ten years.

Sect. 41. Journal of each house published — yeas and nays taken on demand — absentees noted. — Each house shall, from time to time, publish a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the motion of any two members. Whenever the yeas and nays are demanded, the whole list of members shall be called, and the names of the absentees shall be noted and published in the journal.

LIMITATION ON LEGISLATIVE POWER.

Sect. 42. Appropriations, order of, must be by law — revenue to go into treasury. — All revenue collected and moneys received by the State from any source whatsoever shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

First, For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

Second, For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

Third, For free public school purposes.

Fourth, For the payment of the cost of assessing and collecting the revenue.

Fifth, For the payment of the civil list.

Sixth, For the support of the eleemosynary institutions of the State.

Seventh, For the pay of the General Assembly, and such other purposes not herein prohibited as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated.

Sect. 43. General Assembly not to contract debts except as herein. — The General Assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of the State, or to issue bonds or other evidences of indebtedness thereof, except in the following cases:

First, In renewal of existing bonds, when they cannot be paid at maturity, out of the sinking fund or other resources.

Second, On the occurring of an unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third, On the occurring of any unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the General Assembly may submit an act providing for

the loan, or for the contracting of the liability, and containing a provision for levying a tax sufficient to pay the interest and principal when they become due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, due publication having been made of the provisions of the act for at least three months before such election, the act thus ratified shall be irrevocable until the debt thereby incurred shall be paid, principal and interest.

Sect. 44. State's credit not to be loaned. — The General Assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That the General Assembly shall have the power to appropriate from funds in the State sinking fund, being the proceeds of the tax authorized under section 14 of article X of the Constitution, to an amount not exceeding one million dollars for the exhibition of the resources, products and industries of the State in the centennial celebration of the Louisiana purchase in the city of St. Louis.

Sect. 45. Public money, grant of prohibited. — The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: *Provided*, That this shall not be so construed as to prevent the grant of aid in a case of public calamity.

Sect. 46. Municipalities not to lend credit or grant public money — firemen's fund permitted. — The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company: *Provided*, That this shall not be so construed as to prohibit the General Assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows and minor children of deceased firemen, by such cities, villages or incorporated towns as may have an organized fire department — said fund to be taken from the municipal revenue of such cities, villages or incorporated towns.

Sect. 47. Extra pay to public officers, agents, etc., and payment of unauthorized contracts prohibited. — The General Assembly shall have no power to grant, or to authorize any county or municipal authority to grant any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered or contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

Sect. 48. State stock subscriptions prohibited. — The General Assembly shall have no power hereafter to subscribe or authorize the subscription of stock on behalf of the State, in any corporation or association, except for the purpose of securing loans heretofore extended to certain railroad corporations by the State.

Sect. 49. State liens on railroads, not to be released. — The General Assembly shall have no power to release or alienate the lien held by the State upon any railroad, or in anywise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

Sect. 50. Release of debts to State, county or municipality prohibited. — The General Assembly shall have no power to release or extinguish, or authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State, or to any county or other municipal corporation therein.

Sect. 51. War debt, payment of. — The General Assembly shall have no power to make any appropriation of money, or to issue any bonds or other evidences of indebtedness for the payment, or on account or in recognition of any claims audited or that may hereafter be audited by virtue of an act entitled "An act to audit and adjust the war debt of the State," approved March 19, 1874, or any act of a similar nature, until after the claims so audited shall have been presented to and paid by the Government of the United States to the State of Missouri.

Sect. 52. Special and local laws prohibited. — The General Assembly shall not pass any local or special law:

- (1) Authorizing the creation, extension or impairing of liens:
- (2) Regulating the affairs of counties, cities, townships, wards or school districts:
- (3) Changing the names of persons or places:
- (4) Changing the venue in civil or criminal cases:
- (5) Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys:

- (6) Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State:
- (7) Vacating roads, town plats, street or alleys:
- (8) Relating to cemeteries, grave-yards or public grounds not of the State:
- (9) Authorizing the adoption or legitimation of children:
- (10) Locating or changing county seats:
- (11) Incorporating cities, towns or villages, or changing their charters:
- (12) For the opening and conducting of elections, or fixing or changing the places of voting:
- (13) Granting divorces:
- (14) Erecting new townships, or changing township lines, or the lines of school districts:
- (15) Creating offices, or prescribing the powers and duties of officers in counties, cities, townships, election or school districts:
- (16) Changing the law of descent or succession:
- (17) Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:
- (18) Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:
- (19) Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes:
- (20) Fixing the rate of interest:
- (21) Affecting the estates of minors or persons under disability:
- (22) Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:
- (23) Exempting property from taxation:
- (24) Regulating labor, trade, mining or manufacturing:
- (25) Creating corporations, or amending, renewing, extending or explaining the charter thereof:
- (26) Granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:
- (27) Declaring any named person of age:
- (28) Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of their official duties, or their securities from liability:

(29) Giving effect to informal or invalid wills or deeds:

(30) Summoning or empaneling grand or petit juries:

(31) For limitation of civil actions:

(32) Legalizing the unauthorized or invalid acts of any officer or agent of the State, or of any county or municipality thereof. In all other cases where a general law can be made applicable, no local or special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined, without regard to any legislative assertion on that subject.

(33) Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Sect. 53. Local and special laws, notice of. — No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the General Assembly of such bill, and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the General Assembly before such act shall be passed, and the notice shall be recited in the act according to its tenor.

Sect. 54. Extra sessions, power limited. — The General Assembly shall have no power, when convened in extra session by the Governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the Governor after it shall have been convened.

Sect. 55. Capital not to be removed. — The General Assembly shall have no power to remove the seat of government of this State from the city of Jefferson.

Sect. 56. Initiative and referendum. — The legislative authority of the State shall be vested in a Legislative Assembly, consisting of a Senate and House of Representatives, but the people reserve to themselves power to propose laws and amendments to the Constitution, and to enact or reject the same at the polls, independent of the Legislative Assembly, and also reserve power at their own option to approve or reject at the polls any act of the Legislative Assembly. The first power reserved by the people is the initiative, and not more than eight per cent. of the legal voters in each of at least two-thirds of the congressional districts in the State shall be required to propose any measure by such

petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety and laws making appropriations for the current expenses of the State Government, for the maintenance of the state institutions and for the support of public schools) either by the petitions signed by five per cent. of the legal voters in each of at least two-thirds of the congressional districts in the State, or by the Legislative Assembly, as other bills are enacted. Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people. All elections on measures referred to the people of the State shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the State of Missouri." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for Justice of the Supreme Court at the regular election last preceding the filing of any petition for the initiative, or for the referendum, shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION

1. Executive officers, place of residence and duties.
2. Terms of office — when elected — certain officers ineligible as their own successors.
3. Returns of elections for executive officers — tie, how determined.
4. The supreme executive power.
5. Qualifications of governor.

SECTION

6. Duties of governor, generally.
7. Governor may call out militia and command them.
8. Pardoning power of governor — report.
9. Governor shall give information to general assembly — may call extra sessions.
10. Governor's message — to account for moneys and furnish estimates of expenses.
11. Vacancies in office, how filled.
12. Bills presented to governor for approval.
13. Governor may object to a portion of an appropriation bill.
14. Concurrent resolutions to be approved — effect of resolutions.
15. Qualifications and duties of lieutenant-governor.
16. Lieutenant-governor to act as governor, when.
17. President *pro tem.* of the senate — other persons to act as governor, when.
18. Pay of lieutenant-governor.
19. Qualifications of executive officers.
20. Seal of the state.
21. Duties of secretary of state.
22. Accounts and reports of executive officers and others, penalty for false report.
23. Commissions of officers.
24. Pay of executive officers not to be changed — fees to be paid into state treasury.
25. Contested elections of executive officers.

Section 1. Executive officers, residence and duties of. — The executive department shall consist of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools, all of whom, except the Lieutenant-Governor, shall reside at the seat of Government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

Sect. 2. Terms of office — Governor and Treasurer ineligible to re-election — times of holding elections. — The term of office of the Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be four years from the second Monday of January next after their election, and until their successors are elected and qualified; and the Governor and State Treasurer shall be ineligible to re-election as their own successors. At the general election to be held in the year one thousand eight hundred and seventy-six, and every four years thereafter, all of such officers, except the Superintendent of Public Schools, shall be elected, and the Superintendent of Public Schools shall be elected at the general election in the year one thousand eight hundred and seventy-eight, and every four years thereafter.

Sect. 3. Returns of election — tie, how determined. — The returns of every election for the above named officers shall be sealed up and transmitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately

after the organization of the House, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the General Assembly, who shall for that purpose assemble in the hall of the House of Representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more shall have an equal and the highest number of votes, the General Assembly shall, by joint vote, choose one of such persons for said office.

Sect. 4. The supreme executive power shall be vested in a chief magistrate, who shall be styled "The Governor of the State of Missouri."

Sect. 5. Governor, qualifications. — The Governor shall be at least thirty-five years old, a male, and shall have been a citizen of the United States ten years, and a resident of this State seven years next before his election.

Sect. 6. Governor's duties. — The Governor shall take care that the laws are distributed and faithfully executed; and he shall be a conservator of the peace throughout the State.

Sect. 7. Governor, commander-in-chief of militia. — The Governor shall be commander-in-chief of the militia of this State, except when they shall be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion; but he need not command in person unless directed so to do by a resolution of the General Assembly.

Sect. 8. Governor, grant pardons, report to General Assembly. — The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such condition and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall, at each session of the General Assembly, communicate to that body each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve, and the reason for granting the same.

Sect. 9. Governor shall give information to General Assembly, may call extra sessions. — The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary.

Sect. 10. Governor's message — to account for moneys — furnish estimate of expenses. — The Governor shall, at the commencement of each session of the General Assembly, and at the close of his term of office, give information by message of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the General Assembly, in such manner as may be prescribed by law, for all moneys received and paid out by him from any funds subject to his order, with vouchers; and at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

Sect. 11. Vacancies in office — Governor may fill. — When any office shall become vacant, the Governor, unless otherwise provided by law, shall appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed and qualified according to law.

Sect. 12. Governor's duty as to bills and joint resolutions presented to him. — The Governor shall consider all bills and joint resolutions, which, having been passed by both houses of the General Assembly, shall be presented to him. He shall, within ten days after the same shall have been presented to him, return to the house in which they respectively originated, all such bills and joint resolutions, with his approval indorsed thereon, or accompanied by his objections: *Provided*, That if the General Assembly shall finally adjourn within ten days after such presentation, the Governor may, within thirty days thereafter, return such bills and resolutions to the office of the Secretary of State, with his approval or reasons for disapproval.

Sect. 13. He may object to part of an appropriation bill. — If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the General Assembly be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If it be not in session, then he shall transmit the same within thirty days to the office of the Secretary of State, with his approval or reasons for disapproval.

Sect. 14. Concurrent resolutions must be presented to Governor — exceptions — proceedings. — Every resolution to which the concurrence of the Senate and House of Representatives may be necessary, except on questions of adjournment, of going into joint session, and of amending this Constitution, shall be presented to the Governor, and

before the same shall take effect, shall be proceeded upon in the same manner as in the case of a bill: *Provided*, That no resolution shall have the effect to repeal, extend, alter or amend any law.

Sect. 15. Lieutenant-Governor, qualifications and duties. — The Lieutenant-Governor shall possess the same qualifications as the Governor, and by virtue of his office shall be President of the Senate. In committee of the whole he may debate all questions, and when there is an equal division he shall give the casting vote in the Senate, and also in joint vote of both houses.

Sect. 16. Lieutenant-Governor to act as Governor, when. — In case of death, conviction or impeachment, failure to qualify, resignation, absence from the State or other disability of the Governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the Lieutenant-Governor.

Sect. 17. President pro tempore of Senate — other persons to act as Governor, when. — The Senate shall choose a president *pro tempore* to preside in cases of the absence or impeachment of the Lieutenant-Governor, or when he shall hold the office of Governor. If there be no Lieutenant-Governor, or the Lieutenant-Governor shall, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled or the disability removed; and if the President of the Senate, for any of the above named causes, shall become incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Representatives, in the same manner and with the same powers and compensation as are prescribed in the case of the office devolving upon the Lieutenant-Governor.

Sect. 18. Pay of Lieutenant-Governor and President pro tempore. — The Lieutenant-Governor or the President *pro tempore* of the Senate, while presiding in the Senate, shall receive the same compensation as shall be allowed to the Speaker of the House of Representatives.

Sect. 19. Qualifications of other executive officers. — No person shall be eligible to the office of Secretary of State, State Auditor, State Treasurer, Attorney-General, or Superintendent of Public Schools, unless he be a male citizen of the United States and at least twenty-five years old, and shall have resided in this State at least five years next before his election.

Sect. 20. Seal of the State. — The Secretary of State shall be the custodian of the seal of the State, and authenticate therewith all official acts of the Governor, his approval of laws excepted. The said seal shall be called the "Great Seal of the State of Missouri," and the em-

blems and devices thereof, heretofore prescribed by law, shall not be subject to change.

Sect. 21. Secretary of State, duties of. — The Secretary of State shall keep a register of the official acts of the Governor, and when necessary, shall attest them, and lay copies of the same, together with copies of all papers relative thereto, before either house of the General Assembly whenever required to do so.

Sect. 22. Executive officers, managers of institutions, duties, accounts, penalties. — An account shall be kept by the officers of the executive department of all moneys and choses in action disbursed or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the Governor under oath. The Governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers, and any officer or manager who at any time shall make a false report, shall be guilty of perjury and punished accordingly.

Sect. 23. Governor shall commission officers. — The Governor shall commission all officers not otherwise provided for by law. All commissions shall run in the name and by the authority of the State of Missouri, be signed by the Governor, sealed with the Great Seal of the State of Missouri, and attested by the Secretary of State.

Sect. 24. Salary of executive officers not to be changed — fees to be paid into treasury. — The officers named in this article shall receive for their services a salary to be established by law, which shall not be increased or diminished during their official terms; and they shall not, after the expiration of the terms of those in office at the adoption of this Constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. All fees that may hereafter be payable by law for any service performed by any officer provided for in this article shall be paid in advance into the State Treasury.

Sect. 25. Contested elections of executive officers. — Contested elections of Governor and Lieutenant-Governor shall be decided by a joint vote of both houses of the General Assembly, in such manner as may be provided by law; and contested elections of Secretary of State, State Auditor, State Treasurer, Attorney-General and Superintendent of Public Schools shall be decided before such tribunal and in such manner as may be provided by law.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION

1. Judicial power, where vested,
2. Jurisdiction of supreme court.
3. Superintending control of supreme court — power to issue writs.
4. Term of office of judges — chief justice.
5. Quorum, number of judges, their duties.
6. Qualifications of judges of supreme court.
7. Term of judges to commence, when.
8. Term of present judges, elections to fill their places.
9. Time and place of holding supreme court.
10. Accommodations for supreme court.
11. Judges divided in opinion.
12. St. Louis court of appeals, jurisdiction of — appeals to supreme court.
13. Judges of court of appeals, their number, elections, qualification and pay.
14. Duties of judges — quorum — terms of court.
15. Opinions and practice in court of appeals.
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21. Supreme court at St. Louis and St. Joseph discontinued.
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25. Election, terms of office and duties of circuit judges.
26. Qualifications of circuit judges.
27. Circuit court of St. Louis county — jurisdiction of court of appeals.
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38. Writs and prosecutions in name of state — conclusion of indictments.
39. Clerks of courts, appointive and elective.
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AMENDMENT OF 1884.

1. St. Louis court of appeals, extended jurisdiction — judges.
2. Kansas City court of appeals established, terms, jurisdiction, judges.

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3. Court of appeals, additional may be established — districts, etc., may be changed — transfer of cases.
4. Kansas City court of appeals, first judges, appointment and election — constitutional provisions applicable.
5. Supreme court, exclusive appellate jurisdiction of.
6. When court of appeals cases may be certified to supreme court.
7. Cases now pending in supreme court, transferred to Kansas City court of appeals.
8. Supreme court, superintending control of.
9. Kansas City court of appeals, court room and offices.
10. Judges of courts of appeals, salaries, how paid.
11. Constitution, inconsistent provisions rescinded.

AMENDMENT OF 1890.

1. Supreme court, number of judges, two divisions.
2. Appointment of judges, election, terms, divisions, chief justice.
3. Assignment of causes, practice, opinions, issue of writs.
4. Transfer of cause to court en banc, when.
5. Divisions to be dispensed with, when.
6. Repeal of inconsistent provisions.

Section 1. Judicial power, where vested. — The judicial power of the State, as to matters of law and equity, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, the St. Louis Court of Appeals, circuit courts, criminal courts, probate courts, county courts and municipal corporation courts.

Sect. 2. Supreme Court, jurisdiction of. — The Supreme Court, except in cases otherwise directed by this Constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under the restrictions and limitations in this Constitution provided.

Sect. 3. Supreme Court, superintending control of — power to issue original writs. — The Supreme Court shall have a general superintending control over all inferior courts. It shall have power to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari* and other original remedial writs, and to hear and determine the same.

Sect. 4. Supreme Judges, term of office — Chief Justice. — The judges of the Supreme Court shall hold office for the term of ten years. The judge oldest in commission shall be Chief Justice of the Court; and, if there be more than one commission of the same date, the court may select the Chief Justice from the judges holding the same.

Sect. 5. Judges, number of — quorum — duties — election. — The Supreme Court shall consist of five judges, any three of whom shall constitute a quorum; and said judges shall be conservators of the peace throughout the State, and shall be elected by the qualified voters thereof.

Sect. 6. Judges, qualifications. — The judges of the Supreme Court shall be citizens of the United States, not less than thirty years old, and

shall have been citizens of this State for five years next preceding their election or appointment, and shall be learned in the law.

Sect. 7. Terms of judges commence, when. — The full terms of the judges of the Supreme Court shall commence on the first day of January next ensuing their election, and those elected to fill any vacancy shall also enter upon the discharge of their duties on the first day of January next ensuing such election. Those appointed shall enter upon the discharge of their duties as soon as qualified.

Sect. 8. Terms of present judges — election of successors. — The present judges of the Supreme Court shall remain in office until the expiration of their respective terms of office. To fill their places as their terms expire, one judge shall be elected at the general election in eighteen hundred and seventy-six, and one every two years thereafter.

Sect. 9. Supreme Court, time and place of holding. — The Supreme Court shall be held at the seat of Government at such times as may be prescribed by law; and until otherwise directed by law, the terms of said court shall commence on the third Tuesday in October and April of each year.

Sect. 10. Supreme Court, accommodations. — The State shall provide a suitable court room at the seat of Government, in which the Supreme Court shall hold its sessions; also a clerk's office, furnished offices for the judges, and the use of the State library.

Sect. 11. Judges divided in opinion. — If, in any cause pending in the Supreme Court, or the St. Louis Court of Appeals, the judges sitting shall be equally divided in opinion, no judgment shall be entered therein based on such division; but the parties to the cause may agree upon some person, learned in the law, to act as special judge in the cause, who shall therein sit with the court, and give decision in the same manner and with the same effect as one of the judges. If the parties cannot agree upon a special judge, the court shall appoint one.

Sect. 12. St. Louis Court of Appeals — jurisdiction — appeals to Supreme Court. — There is hereby established in the city of St. Louis an appellate court, to be known as the "St. Louis Court of Appeals," the jurisdiction of which shall be coextensive with the city of St. Louis and the counties of St. Louis, St. Charles, Lincoln and Warren. Said court shall have power to issue writs of *habeas corpus*, *quo warranto*, *mandamus*, *certiorari*, and other original remedial writs, and to hear and determine the same; and shall have a superintending control over all inferior courts of record in said counties. Appeals shall lie from the decisions of the St. Louis Court of Appeals to the Supreme Court, and writs of error may issue from the Supreme Court to said court in the

following cases only: In all cases where the amount in dispute, exclusive of costs, exceeds the sum of two thousand five hundred dollars; in cases involving the construction of the Constitution of the United States or of this State; in cases where the validity of a treaty or statute of or authority exercised under the United States is drawn in question; in cases involving the construction of the revenue laws of this State, or the title to any office under this State; in cases involving title to real estate; in cases where a county or other political subdivision of the State or any State officer is a party, and in all cases of felony.

Sect. 13. Judges of Court of Appeals, number, election, qualification and pay. — The St. Louis Court of Appeals shall consist of three judges, to be elected by the qualified voters of the city of St. Louis, and the counties of St. Louis, St. Charles, Lincoln and Warren, who shall hold their offices for the period of twelve years. They shall be residents of the district composed of said counties, shall possess the same qualifications as judges of the Supreme Court, and each shall receive the same compensation as is now or may be provided by law for the judges of the circuit court of St. Louis county, and be paid from the same sources: *Provided*, That each of said counties shall pay its proportional part of the same, according to its taxable property.

Sect. 14. Judges, duties — quorum — terms of court. — The judges of said court shall be conservators of the peace throughout said counties. Any two of said judges shall constitute a quorum. There shall be two terms of said court to be held each year, on the first Monday of March and October, and the first term of said court shall be held on the first Monday in January, 1876.

Sect. 15. Opinions of court — rules of practice. — The opinions of said court shall be in writing, and shall be filed in the cases in which they shall be respectively made, and become parts of their record; and all laws relating to the practice in the Supreme Court shall apply to this court, so far as the same may be applicable.

Sect. 16. Election of judges — terms of office — presiding judge. — At the first general election held in said city and counties after the adoption of this Constitution, three judges of said court shall be elected, who shall determine by lot the duration of their several terms of office, which shall be respectively four, eight and twelve years, and certify the result to the Secretary of State; and every four years thereafter one judge of said court shall be elected to hold office for the term of twelve years. The term of office of such judges shall begin on the first Monday in January next ensuing their election. The judge having the oldest license to practice law in this State shall be the presiding judge of said court.

Sect. 17. Court of appeals, judges — appointment of. — Upon the adoption of this Constitution the Governor shall appoint three judges for said court, who shall hold their offices until the first Monday of January, eighteen hundred and seventy-seven, and until their successors shall be duly qualified.

Sect. 18. Court of Appeals, first clerk. — The clerk of the Supreme Court at St. Louis shall be the clerk of the St. Louis Court of Appeals until the expiration of the term for which he was appointed clerk of the Supreme Court, and until his successor shall be duly qualified.

Sect. 19. Cases pending in Supreme Court at St. Louis. — All cases which may be pending in the Supreme Court at St. Louis at the time of the adoption of this Constitution, which by its terms would come within the final appellate jurisdiction of the St. Louis Court of Appeals, shall be certified and transferred to the St. Louis Court of Appeals, to be heard and determined by said court.

Sect. 20. Court of Appeals, when cases are triable in. — All cases coming to said court by appeal, or writ of error, shall be triable at the expiration of fifteen days from the filing of the transcript in the office of the clerk of said court.

Sect. 21. Supreme Court at St. Louis and St. Joseph discontinued. — Upon the adoption of this Constitution, and after the close of the next regular terms of the Supreme Court at St. Louis and St. Joseph, as now established by law, the office of the clerk of the Supreme Court at St. Louis and St. Joseph shall be vacated, and said clerks shall transmit to the clerk of the Supreme Court at Jefferson City all the books, records, documents, transcripts and papers belonging to their respective offices, except those required by section nineteen of this article to be turned over to the St. Louis Court of Appeals; and said records, documents, transcripts and papers shall become part of the records, documents, transcripts and papers of said Supreme Court at Jefferson City, and said court shall hear and determine all the cases thus transferred as other cases.

Sect. 22. Circuit court, jurisdiction and terms. — The circuit court shall have jurisdiction over all criminal cases not otherwise provided for by law; exclusive original jurisdiction in all civil cases not otherwise provided for; and such concurrent jurisdiction with and appellate jurisdiction from inferior tribunals and justices of the peace as is or may be provided by law. It shall hold its terms at such times and places in each county as may be by law directed; but at least two terms shall be held every year in each county.

Sect. 23. Circuit court, superintending control of. — The circuit court shall exercise a superintending control over criminal courts,

probate courts, county courts, municipal corporation courts, justices of the peace, and all inferior tribunals in each county in their respective circuits.

Sect. 24. Judicial circuits — may be changed or abolished — one judge for each. — The State, except as otherwise provided in this Constitution, shall be divided into convenient circuits of contiguous counties, in each of which circuits one circuit judge shall be elected; and such circuits may be changed, enlarged, diminished or abolished, from time to time, as public convenience may require; and whenever a circuit shall be abolished, the office of the judge of such circuit shall cease.

Sect. 25. Circuit judges, terms and duties. — The judges of the circuit court shall be elected by the qualified voters of each circuit; shall hold their offices for the term of six years, and shall reside in and be conservators of the peace within their respective circuits.

Sect. 26. Circuit judges, qualifications. — No person shall be eligible to the office of judge of the circuit court who shall not have attained the age of thirty years, been a citizen of the United States five years, a qualified voter of this State for three years, and who shall not be a resident of the circuit in which he may be elected or appointed.

Sect. 27. Circuit court of St. Louis County — jurisdiction of Court of Appeals. — The circuit court of St. Louis County shall be composed of five judges and such additional number as the General Assembly may from time to time provide. Each of said judges shall sit separately for the trial of causes and the transaction of business in special term. The judges of said circuit court may sit in general term, for the purpose of making rules of court, and for the transaction of such other business as may be provided by law, at such time as they may determine, but shall have no power to review any order, decision or proceeding of the court in special term. The St. Louis Court of Appeals shall have exclusive jurisdiction of all appeals from and writs of error to the circuit courts of St. Charles, Lincoln and Warren counties, and the circuit court of St. Louis County, in special term, and all courts of record having criminal jurisdiction in said counties.

Sect. 28. Additional circuit judges, provision for. — In any circuit composed of a single county, the General Assembly may, from time to time, provide for one or more additional judges, as the business shall require; each of whom shall separately try cases and perform all other duties imposed upon circuit judges.

Sect. 29. Vacancy in office, disability — another circuit judge may preside, etc. — If there be a vacancy in the office of judge of any circuit, or if the judge be sick, absent, or from any cause unable to hold any

term or part of term of court, in any county in his circuit, such term or part of term of court may be held by a judge of any other circuit; and at the request of the judge of any circuit, any term of court or part of term in his circuit may be held by the judge of any other circuit, and in all such cases, or in any case where the judge cannot preside, the General Assembly shall make such additional provision for holding court as may be found necessary.

Sect. 30. Judges, election of — ties and contests. — The election of judges of all courts of record shall be held as is or may be provided by law, and in case of a tie or contested election between the candidates, the same shall be determined as prescribed by law.

Sect. 31. Criminal courts, where established. — The General Assembly shall have no power to establish criminal courts, except in counties having a population exceeding fifty thousand.

Sect. 32. Judges, vacancy, how filled. — In case the office of judge of any court of record become vacant by death, resignation, removal, failure to qualify, or otherwise, such vacancy shall be filled in the manner provided by law.

Sect. 33. Judges, salaries not to be changed during term. — The judges of the Supreme, Appellate and Circuit courts, and of all other courts of record receiving a salary, shall, at stated times, receive such compensation for their services as is or may be prescribed by law; but it shall not be increased or diminished during the period for which they were elected.

Sect. 34. Probate courts, jurisdiction and powers. — The General Assembly shall establish in every county a probate court, which shall be a court of record, and consist of one judge, who shall be elected. Said court shall have jurisdiction over all matters pertaining to probate business, to granting letters testamentary and of administration, the appointment of guardians and curators of minors and persons of unsound mind, settling the accounts of executors, administrators, curators and guardians and the sale or leasing of lands by administrators, curators and guardians; and also jurisdiction over all matters relating to apprentices: *Provided*, That until the General Assembly shall provide by law for a uniform system of probate courts, the jurisdiction of probate courts heretofore established shall remain as now provided by law.

Sect. 35. Probate courts, jurisdiction, practice and clerks. — Probate courts shall be uniform in their organization, jurisdiction, duties and practice, except that a separate clerk may be provided for, or the judge may be required to act, *ex officio*, as his own clerk.

Sect. 36. County courts. — In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to

transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law.

Sect. 37. Justices of the peace. — In each county there shall be appointed, or elected, as many justices of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law.

Sect. 38. Writs and prosecutions in name of State — conclusion of indictments. — All writs and process shall run and all prosecutions shall be conducted in the name of the "State of Missouri;" all writs shall be attested by the clerk of the court from which they shall be issued; and all indictments shall conclude, "against the peace and dignity of the State."

Sect. 39. Clerks of courts, appointive and elective. — The St. Louis Court of Appeals and Supreme Court shall appoint their own clerks. The clerks of all other courts of record shall be elective, for such terms and in such manner as may be directed by law: *Provided*, That the term of office of no existing clerk of any court of record, not abolished by this Constitution, shall be affected by such law.

Sect. 40. Clerks, election of — ties and contests. — In case there be a tie or a contested election between candidates for clerk of any court of record, the same shall be determined in such manner as may be directed by law.

Sect. 41. Judge, removal for inability. — In case of the inability of any judge of a court of record to discharge the duties of his office with efficiency, by reason of continued sickness, or physical or mental infirmity, it shall be in the power of the General Assembly, two-thirds of the members of each house concurring, with the approval of the Governor, to remove such judge from office; but each house shall state on its respective journal the cause for which it shall wish his removal, and give him notice thereof, and he shall have the right to be heard in his defense, in such manner as the General Assembly shall by law direct.

Sect. 42. Provisions as to existing courts. — All courts now existing in this State, not named or provided for in this Constitution, shall continue until the expiration of the terms of office of the several judges; and as such terms expire, the business of said courts shall vest in the court having jurisdiction thereof in the counties where said courts now exist, and all the records and papers shall be transferred to the proper courts.

Sect. 43. Supreme Court, what opinions to be published. — The Supreme Court of the State shall designate what opinions delivered by

the court, or the judges thereof, may be printed at the expense of the State; and the General Assembly shall make no provision for payment by the State for the publication of any case decided by said court not so designated.

Sect. 44. Judicial decisions free for publication. — All judicial decisions in this State shall be free for publication by any person.

AMENDMENT OF 1884.

COURT OF APPEALS.

Section 1. St. Louis Court of Appeals, extended jurisdiction — judges. — The jurisdiction of the St. Louis Court of Appeals is hereby extended so as to be coextensive with the counties of Monroe, Shelby, Knox, Scotland, Clark, Lewis, Marion, Ralls, Pike, Lincoln, Warren, St. Charles, St. Louis, Jefferson, Ste. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, Dunklin, Stoddard, Wayne, Bollinger, Madison, St. Francois, Washington, Franklin, Crawford, Iron, Reynolds, Carter, Butler, Ripley, Oregon, Shannon, Dent, Phelps, Pulaski, Texas, Howell, Ozark, Douglas, Wright, Laclede, Webster, Christian, Taney, Stone, Greene, Lawrence, Barry, Newton, and McDonald, as well as the city of St. Louis; and each judge thereof, when hereafter elected, shall be elected by the qualified voters of the counties and of the city under the jurisdiction of said court, and shall be a resident of the said territorial appellate district.

Sect. 2. Kansas City Court of Appeals, jurisdiction, terms, judges. — There is hereby established at Kansas City an appellate court, to be known as the Kansas City Court of Appeals, the jurisdiction of which shall be coextensive with all the counties in the State except those embraced in the jurisdiction of the St. Louis Court of Appeals. There shall be held in each year two terms of said Kansas City Court of Appeals, one on the first Monday of March and one on the first Monday of October. The Kansas City Court of Appeals shall consist of three judges, who shall be elected by the qualified voters of the counties under the jurisdiction of said court, and shall be residents of said territorial appellate district.

Sect. 3. Court of Appeals, one additional may be established — districts, terms and pecuniary jurisdiction may be changed — transfer of cases. — The General Assembly shall have power by law to create one additional court of appeals, with a new district therefor; to change the limits of the appellate districts, and the names of the courts of appeals, designating the districts by numbers or otherwise; to change the time of holding the terms of said courts; to increase

or diminish the pecuniary limit of the jurisdiction of the courts of appeals; to provide for the transfer of cases from one court of appeals to another court of appeals; to provide for the transfer of cases from a court of appeals to the Supreme Court, and to provide for the hearing and determination of such cases by the courts to which they may be transferred.

Sect. 4. Kansas City Court of Appeals — first judges — constitutional provisions applicable to. — The first term of said Kansas City Court of Appeals shall be held on the first Monday of March in the year 1885, and the first judges thereof shall, upon the adoption of this amendment, be appointed by the Governor of said State for the term of four years each, beginning on the first day of January, 1885, and at the general election in the year 1888, the first election for the judges of said court shall be held, and the provisions of the Constitution of the State concerning the organization, the judges, the powers, the jurisdiction and proceedings of the St. Louis Court of Appeals, as herein amended, shall in all appropriate respects apply to the Kansas City Court of Appeals, and to such additional court of appeals as may be by law created.

Sect. 5. Supreme Court, exclusive appellate jurisdiction of. — In all causes or proceedings reviewable by the Supreme Court, writs of error shall run from the Supreme Court directly to the circuit courts and to courts having the jurisdiction pertaining to circuit courts, and in all such causes or proceedings, appeals shall lie from such trial courts directly to the Supreme Court, and the Supreme Court shall have exclusive jurisdiction of such writs of error and appeals, and shall in all such cases exclusively exercise superintending control over such trial courts.

Sect. 6. Courts of Appeals cases may be certified to Supreme Court, when. — When any one of said courts of appeals shall in any cause or proceeding render a decision which any one of the judges therein sitting shall deem contrary to any previous decision of any one of said courts of appeals, or of the Supreme Court, the said Court of Appeals must, of its own motion, pending the same term and not afterward, certify and transfer said cause or proceeding and the original transcript therein to the Supreme Court, and thereupon the Supreme Court must rehear and determine said cause or proceeding, as in case of jurisdiction obtained by ordinary appellate process; and the last previous rulings of the Supreme Court on any question of law or equity shall, in all cases, be controlling authority in said Courts of Appeals.

Sect. 7. Cases now pending in Supreme Court transferred to Kansas City Court of Appeals. — All cases which may be pending in the Supreme

Court at the time of the adoption of this amendment, which have not been submitted, and which by its terms would come within the territorial appellate jurisdiction of the Kansas City Court of Appeals, shall be certified and transferred to such court, to be heard and determined by it.

Sect. 8. Supreme Court, superintending control of. — The Supreme Court shall have superintending control over the courts of appeals by *mandamus*, prohibition and *certiorari*.

Sect. 9. Kansas City Court of Appeals, court-room and offices. — The State shall provide a suitable court-room at Kansas City, in which the Kansas City Court of Appeals shall hold its sessions; also a clerk's office and furnished offices for the judges.

Sect. 10. Judges of Courts of Appeals — salaries, how paid. — The judges of the Kansas City Court of Appeals, and of such additional court of appeals as may be created by law, shall each annually receive a salary of three thousand five hundred dollars per annum, which, together with the entire salaries of the judges of the St. Louis Court of Appeals, shall be paid out of the State Treasury, as the salaries of the judges of the Supreme Court are now paid, unless otherwise provided by law.

Sect. 11. Constitution, inconsistent provisions rescinded. — All provisions of the Constitution of this State, and all laws of this State which are inconsistent with this amendment, shall, so far as inconsistent, upon its adoption, be forever rescinded and of no effect.

AMENDMENT OF 1890.

SUPREME COURT.

Section 1. Number of judges — divisions of court — business divided — quorum. — The Supreme Court shall consist of seven judges, and, after the first Monday in January, 1891, shall be divided into two divisions, as follows: One division to consist of four judges of the court and to be known as division number one, the other to consist of the remaining judges and to be known as division number two. The divisions shall sit separately for the hearing and disposition of causes and matters pertaining thereto, and shall have concurrent jurisdiction of all matters and causes in the Supreme Court, except that division number two shall have exclusive cognizance of all criminal cases pending in said court: *Provided*, That a cause therein may be transferred to the court as provided in section four of this amendment. The division of business of which said divisions have concurrent jurisdiction shall be made as the Supreme Court may determine. A majority of the judges

of a division shall constitute a quorum thereof, and all orders, judgments and decrees of either division, as to causes and matters pending before it, shall have the force and effect of those of the court.

Sect. 2. Appointment and election of judges — term — divisions, how constituted — chief justice — presiding judges. — Upon the adoption of this amendment, the Governor shall appoint two additional judges of the Supreme Court, who shall hold their offices until the first Monday in January, 1893, and at the general election in the year 1892 their successors shall be elected, who shall hold their offices for the term of ten years, as other judges of the Supreme Court. The two judges appointed by the Governor, together with the judge elected at the general election in the year 1890, shall constitute division number two, and the remaining judges shall constitute division number one. The court shall elect its chief justice and each division a presiding judge thereof.

Sect. 3. Business divided, how — practice — opinions — original writs. — The Supreme Court shall assign to each division the causes and matters to be heard by it, of which assignment due public notice shall be given, and all laws relating to practice in the Supreme Court, as well as the rules of the Supreme Court, shall apply to each division so far as they may be applicable thereto. The opinion of each division shall be in writing, and shall be filed in the causes in which they shall be respectively made during the term at which the cause is submitted, and such opinions shall be a part of the records of the Supreme Court. Each division shall have authority to issue the original writs and exercise the powers enumerated in section three of article six of the Constitution.

Sect. 4. Case transferred to court en banc, when. — When the judges of a division are equally divided in opinion in a cause, or when a judge of a division dissents from the opinion therein, or when a federal question is involved, the cause, on the application of the losing party, shall be transferred to the court for its decision; or when a division in which a cause is pending shall so order, the cause shall be transferred to the court for its decision.

Sect. 5. Court may dispense with divisions — may redivide. — Whenever in the opinion of the Supreme Court the state of its docket with reference to the speedy disposition of the business of the court will justify dispensing with the divisions hereinbefore provided, the court shall dispense therewith, and the court shall thereafter hear and determine all causes pending in it: *Provided, however,* That the court shall have the power to again divide itself into two divisions, in like manner and with like power and effect as hereinbefore provided, whenever in the opinion of six judges thereof, entered of record, the condi-

tion of its docket with reference to the speedy disposition of the business of the court shall so require; and in such division the four judges oldest in commission shall constitute division number one, and the remaining judges division number two.

Sect. 6. Repealing clause. — All provisions of the Constitution of the State, and all laws thereof not consistent with this amendment, shall, upon its adoption, be forever rescinded and of no effect.

ARTICLE VII.

IMPEACHMENTS.

SECTION

1. Who liable, and for what causes.
2. Trial of impeachments, punishment.

Section 1. Officers liable to. — The Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Schools and Judges of the Supreme, Circuit and Criminal Courts, and of the St. Louis Court of Appeals, shall be liable to impeachment for high crimes or misdemeanors, and for misconduct, habits of drunkenness, or oppression in office.

Sect. 2. House impeaches, Senate tries — proceedings — punishment. — The House of Representatives shall have the sole power of impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the Senators shall be sworn to do justice according to law and evidence. When the Governor of the State is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two thirds of the Senators present. But judgment in such cases shall not extend any further than removal from office, and disqualification to hold any office of honor, trust or profit under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

ARTICLE VIII.

SUFFRAGE AND ELECTIONS.

SECTION

1. Time of holding general elections.
2. Qualifications of voters.
3. Mode of conducting elections and contests.
4. Voters privileged from arrest, when.
5. Registration of voters in certain cities, etc.
6. Elections by persons in representative capacity, *viva voce*.

SECTION

7. Residence as voter not gained or lost, when.
8. Paupers and criminals disqualified.
9. Contested elections generally.
10. Criminals may be disqualified.
11. United States soldiers not to vote.
12. Aliens, etc., cannot hold office.

Section 1. General elections, when held. — The general election shall be held biennially on the Tuesday next following the first Monday in November. The first general election under this Constitution shall be held on that day, in the year one thousand eight hundred and seventy-six; but the General Assembly may, by law, fix a different day — two thirds of all the members of each house consenting thereto.

Sect. 2. Electors, qualifications of. — Every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen of the United States according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First, He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second, He shall have resided in the county, city or town where he shall offer to vote at least sixty days immediately preceding the election.

Sect. 3. Elections, how conducted and contested. — All elections by the people shall be by ballot; every ballot voted shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters, opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to disclose how any voter shall have voted, unless required to do so as witnesses in a judicial proceeding: *Provided*, That in all cases of contested elections the ballots cast may be counted, compared with the list of voters, and examined under such safeguards and regulations as may be prescribed by law.

Sect. 4. Voters free from arrest, when. — Voters shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

Sect. 5. Registration in certain cities and counties. — The General Assembly shall provide, by law, for the registration of all voters in cities and counties having a population of more than one hundred thousand inhabitants, and may provide for such registration in cities having a population exceeding twenty-five thousand inhabitants and not exceeding one hundred thousand, but not otherwise.

Sect. 6. Elections *viva voce*, when. — All elections, by persons in a representative capacity, shall be *viva voce*.

Sect. 7. Residence as voter not gained or lost, when. — For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence while employed in the service, either civil or military, of this State, or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or of the high seas, nor while a student of any institution of learning, nor while kept in a poor-house or other asylum at public expense, nor while confined in public prison.

Sect. 8. Who disqualified as voters. — No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of this State.

Sect. 9. Contested elections, trial of, etc. — The trial and determination of contested elections of all public officers, whether State, judicial, municipal or local, except Governor and Lieutenant-Governor, shall be by the courts of law, or by one or more of the judges thereof. The General Assembly shall, by general law, designate the court or judge by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law, assigning jurisdiction or regulating its exercises, shall apply to any contest arising out of any election held before said law shall take effect.

Sect. 10. Criminals may be disqualified. — The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, or misdemeanors connected with the exercise of the right of suffrage.

Sect. 11. United States officers, soldiers and marines disqualified. — No officer, soldier or marine in the regular army or navy of the United States shall be entitled to vote at any election in this State.

Sect. 12. Aliens not to hold office — residence required. — No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding his election or appointment.

ARTICLE IX.

COUNTIES, CITIES AND TOWNS.

SECTION

1. Existing counties recognized.
2. Removal of county seats.
3. New counties — counties cannot be reduced below the ratio of representation.
4. Portion of county stricken off and added to another.

SECTION

5. Liability of new counties.
6. Becoming stockholders, etc., prohibited — provision as to existing subscriptions.
7. Organization and classification of cities and towns.
8. Township organization adopted, how — justices of county court.
9. Township organization discontinued, how.
10. Sheriffs and coroners.
11. Vacancy in office of sheriff and coroner.
12. Fees of county officers, how provided for.
13. Fees of officers generally — limit — quarterly returns.
14. Provisions for extra officials.
15. Consolidation of city and county governments.
16. Charters of large cities, how framed, adopted and amended.
17. Certain features of such charters.
18. No person can hold two offices, when.
19. Excess of municipal indebtedness, how paid.

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20. May extend her limits and adopt a charter.
21. Authentication of charter, judicial notice of.
22. Amendment of charter.
23. Certain special provisions.
24. Courts of St. Louis county — eighth judicial circuit.
25. St. Louis remains subject to general law.

Section 1. Counties now existing recognized. — The several counties of this State, as they now exist, are hereby recognized as legal subdivisions of the State.

Sect. 2. County seats, removal of, when submitted. — The General Assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law; and no county seat shall be removed unless two thirds of the qualified voters of the county, voting on the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in five years. All additions to a town which is a county seat shall be included, considered and regarded as part of the county seat.

Sect. 3. New counties, size — division of counties by vote, etc. — The General Assembly shall have no power to establish any new county with a territory of less than four hundred and ten square miles, nor to reduce any county now established to a less area or less population than required for a ratio of representation existing at the time; but when a new county is formed having a population less than a ratio of representation, it shall be attached for representative purposes to the county from which the greatest amount of territory is taken until such ratio shall be obtained. No county shall be divided or have any portion stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the qualified voters of

the county or counties thus affected, voting on the question, shall vote therefor; nor shall any new county be established, any line of which shall run within ten miles of the then existing county seat of any county. In all cases of the establishment of any new county, the new county shall be held for and obliged to pay its ratable proportion of all the liabilities then existing of the county or counties from which said new county shall be formed.

Sect. 4. Counties, part stricken off, how. — No part of the territory of any county shall be stricken off and added to an adjoining county without submitting the question to the qualified voters of the counties immediately interested, nor unless a majority of all the qualified voters of the counties thus affected, voting on the question, shall vote therefor. When any part of a county is stricken off and attached to another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it is taken.

Sect. 5. New county, liability of. — When any new county, formed from contiguous territory taken from older counties, or when any county to which territory shall be added taken from an adjoining county shall fail to pay the proportion of indebtedness of such territory to the county or counties from which it is taken, then it may be lawful for any county from which such territory has been taken to levy and collect, by taxation, the due proportion of indebtedness of such territory, in the same manner as if the territory had not been stricken off.

Sect. 6. Municipalities not to subscribe to capital stock nor aid corporations or institutions. — No county, township, city or other municipality shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation or donation, or loan its credit to or in aid of any such corporation or association, or to or in aid of any college or institution of learning or other institution, whether created for or to be controlled by the State or others. All authority heretofore conferred for any of the purposes aforesaid by the General Assembly, or by the charter of any corporation, is hereby repealed: *Provided, however,* That nothing in this Constitution contained shall affect the right of any such municipality to make such subscription, where the same has been authorized under existing laws by a vote of the people of such municipality prior to its adoption, or to prevent the issue of renewal bonds, or the use of such other means as are or may be prescribed by law for the liquidation or payment of such subscription, or of any existing indebtedness.

Sect. 7. Cities and towns, organization and classification. — The General Assembly shall provide, by general laws, for the organization

and classification of cities and towns. The number of such classes shall not exceed four; and the power of each class shall be defined by general laws, so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. The General Assembly shall also make provisions, by general law, whereby any city, town or village, existing by virtue of any special or local law, may elect to become subject to, and be governed by, the general laws relating to such corporations.

Sect. 8. Township organization adopted, how — county justices. — The General Assembly may provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting upon that proposition, at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this constitution as provides for the management of county affairs, and the assessment and collection of the revenue by county officers, in conflict with such general law for township organization, may be dispensed with, and the business of said county, and the local concerns of the several townships therein may be transacted in such manner as may be prescribed by law: *Provided*, That the justices of the county court in such case shall not exceed three in number.

Sect. 9. Township organization discontinued, how. — In any county which shall have adopted "township organization," the question of continuing the same may be submitted to a vote of the electors of such county at a general election, in the manner that shall be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, it shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county.

Sect. 10. Election of sheriff and coroner. — There shall be elected by the qualified voters in each county on the first Tuesday next following the first Monday in November, A. D. 1908, and thereafter every four years, a sheriff and coroner. They shall serve for four years and until their successors be duly elected and qualified, unless sooner removed for malfeasance in office. Before entering on the duties of their office, they shall give security in the amount and in such manner as shall be prescribed by law, and shall be eligible only four years in any one period. Whenever a county shall be hereafter established, the Governor shall appoint a sheriff and coroner therein, who shall continue in office until the next succeeding general election and until their successors shall be duly elected and qualified.

Sect. 11. Sheriff and coroner — vacancy in office. — Whenever a vacancy shall happen in the office of sheriff or coroner, the same shall

be filled by the county court. If such vacancy happen in the office of sheriff more than nine months prior to the time of holding a general election, such county court shall immediately order a special election to fill the same, and the person by it appointed shall hold office until the person chosen at such election shall be duly qualified; otherwise, the person appointed by such county court shall hold office until the person chosen at such general election shall be duly qualified. If any vacancy happen in the office of coroner, the same shall be filled for the remainder of the term by such county court. No person elected or appointed to fill a vacancy in either of said offices shall thereby be rendered ineligible for the next succeeding term.

Sect. 12. Fees of county officers — how provided for. — The General Assembly shall, by a law uniform in its operation, provide for and regulate the fees of all county officers, and for this purpose may classify the counties by population.

Sect. 13. Fees of county or city officers, limit — quarterly returns — penalty. — The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return, quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury.

Sect. 14. Additional officers, duties and terms. — Except as otherwise directed by this Constitution, the General Assembly shall provide for the election or appointment of such other county, township and municipal officers as public convenience may require; and their terms of office and duties shall be prescribed by law; but no term of office shall exceed four years.

Sect. 15. City and county governments, consolidation of. — In all counties having a city therein containing over one hundred thousand inhabitants, the city and county government thereof may be consolidated in such manner as may be provided by law.

Sect. 16. Large cities may frame their own charters, how adopted and amended. — Any city having a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a board of thirteen freeholders, who shall have been for at least five years qualified voters thereof, to be elected by the qualified voters of such city at any general or special election; which

board shall, within ninety days after such election, return to the chief magistrate of such city a draft of such charter, signed by the members of such board or a majority of them. Within thirty days thereafter, such proposed charter shall be submitted to the qualified voters of such city, at a general or special election, and if four-sevenths of such qualified voters voting thereat shall ratify the same, it shall, at the end of thirty days thereafter, become the charter of such city, and supersede any existing charter and amendments thereof. A duplicate certificate shall be made, setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of such city and authenticated by its corporate seal. One of such certificates shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds for the county in which such city lies, shall be deposited among the archives of such city, and all courts shall take judicial notice thereof. Such charter, so adopted, may be amended by a proposal therefor, made by the lawmaking authorities of such city, published for at least thirty days in three newspapers of largest circulation in such city, one of which shall be a newspaper printed in the German language, and accepted by three-fifths of the qualified voters of such city, voting at a general or special election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State.

Sect. 17. Provisions of such charters — alternative sections may be submitted to voters. — It shall be a feature of all such charters that they shall provide, among other things, for a mayor or chief magistrate, and two houses of legislation, one of which at least shall be elected by general ticket; and in submitting any such charter or amendment thereto to the qualified voters of such city, any alternative section or article may be presented for the choice of the voters, and may be voted on separately, and accepted or rejected separately, without prejudice to other articles or sections of the charter or any amendment thereto.

Sect. 18. No person can hold two offices, when. — In cities or counties having more than two hundred thousand inhabitants, no person shall, at the same time, be a State officer and an officer of any county, city or other municipality; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities; but this section shall not apply to notaries public, justices of the peace or officers of the militia.

Sect. 19. Municipal indebtedness, payment of. — The corporate authorities of any county, city, or other municipal subdivision of this State, having more than two hundred thousand inhabitants, which has already exceeded the limit of indebtedness prescribed in section twelve

of article X of this Constitution, may, in anticipation of the customary annual revenue thereof, appropriate, during any fiscal year, toward the general governmental expenses thereof, a sum not exceeding seven-eighths of the entire revenue applicable to general governmental purposes (exclusive of the payment of the bonded debt of such county, city or municipality) that was actually raised by taxation alone during the preceding fiscal year; but until such excess of indebtedness cease, no further bonded debt shall be incurred, except for the renewal of other bonds.

ST. LOUIS.

Sect. 20. City of St. Louis, extension of limits, adoption of charter. —

The city of St. Louis may extend its limits so as to embrace the parks now without its boundaries, and other convenient and contiguous territory, and frame a charter for the government of the city thus enlarged, upon the following conditions, that is to say: The council of the city and county court of the county of St. Louis shall, at the request of the mayor of the city of St. Louis, meet in joint session, and order an election, to be held as provided for general elections, by the qualified voters of the city and county, of a board of thirteen freeholders of such city or county, whose duty shall be to propose a scheme for the enlargement and definition of the boundaries of the city, the reorganization of the government of the county, the adjustment of the relations between the city thus enlarged and the residue of St. Louis county, and the government of the city thus enlarged, by a charter in harmony with and subject to the Constitution and laws of Missouri, which shall, among other things, provide for a chief executive and two houses of legislation, one of which shall be elected by general ticket, which scheme and charter shall be signed in duplicate by said board or a majority of them, and one of them returned to the mayor of the city and the other to the presiding justice of the county court within ninety days after the election of such board. Within thirty days thereafter the city council and county court shall submit such scheme to the qualified voters of the whole county, and such charter to the qualified voters of the city so enlarged, at an election to be held not less than twenty nor more than thirty days after the order therefor; and if a majority of such qualified voters, voting at such election, shall ratify such scheme and charter, then such scheme shall become the organic law of the county and city, and such charter the organic law of the city, and at the end of sixty days thereafter shall take the place of and supersede the charter of St. Louis, and all amendments thereof, and all special laws relating to St. Louis county inconsistent with such scheme.

Sect. 21. Scheme and charter, how authenticated — judicial notice. — A copy of such scheme and charter, with a certificate thereto appended, signed by the mayor and authenticated by the seal of the city, and also signed by the presiding justice of the county court and authenticated by the seal of the county, setting forth the submission of such scheme and charter to the qualified voters of such county and city, and its ratification by them, shall be made in duplicate, one of which shall be deposited in the office of the Secretary of State, and the other, after being recorded in the office of the recorder of deeds of St. Louis county, shall be deposited among the archives of the city, and thereafter all courts shall take judicial notice thereof.

Sect. 22. Charter, how amended and revised. — The charter so ratified may be amended by proposals therefor submitted by the law-making authorities of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals and accepted by three-fifths of the qualified voters voting for or against each of said amendments so submitted; and the lawmaking authorities of such city may order an election by the qualified voters of the city of a board of thirteen freeholders of such city to prepare a new charter for such city, which said charter shall be in harmony with and subject to the Constitution and laws of the State, and shall provide, among other things, for a chief executive and at least one house of legislation to be elected by general ticket. Said revised charter shall be submitted to the qualified voters of such city at an election to be held not less than twenty nor more than thirty days after the order therefor, and if a majority of such qualified voters voting at such election ratify such charter, then said charter shall become the organic law of such city, and sixty days thereafter shall take effect and supersede the charter of such city and all special laws inconsistent therewith.

Sect. 23. Charter in harmony with Constitution and laws — various provisions under. — Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri, except only that provision may be made for the graduation of the rate of taxation for city purposes in the portions of the city which are added thereto by the proposed enlargement of its boundaries. In the adjustment of the relations between city and county, the city shall take upon itself the entire park tax; and in consideration of the city becoming the proprietor of all the county buildings and property within its enlarged limits, it shall assume the whole of the existing county debt, and thereafter the city and county of St. Louis shall be independent of each other. The city shall be exempted from all county taxation. The

judges of the county court shall be elected by the qualified voters outside of the city. The city, as enlarged, shall be entitled to the same representation in the General Assembly, collect the State revenue and perform all other functions in relation to the State, in the same manner, as if it were a county as in this Constitution defined; and the residue of the county shall remain a legal county of the State of Missouri, under the name of the county of St. Louis. Until the next apportionment for Senators and Representatives in the General Assembly, the city shall have six Senators and fifteen Representatives, and the county one Senator and two Representatives, the same being the number of Senators and Representatives to which the county of St. Louis, as now organized, is entitled under section eight of article IV of this Constitution.

Sect. 24. Courts of St. Louis, city and county. — The county and city of St. Louis, as now existing, shall continue to constitute the Eighth judicial circuit, and the jurisdiction of all courts of record, except the county court, shall continue until otherwise provided by law.

Sect. 25. St. Louis subordinate as other cities and counties. — Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this State.

ARTICLE X.

REVENUE AND TAXATION.

SECTION

1. The taxing power, how exercised.
2. Power to tax corporations.
3. Taxes to be collected for public purposes only — must be uniform.
4. Property to be taxed in proportion to value.
5. Taxing railroads.
6. Exemptions.
7. Other exemptions void.
8. Rate for state purposes.
9. Municipalities liable for state taxes.
10. General assembly shall not tax for municipal purposes.
11. Rates for local purposes — limits — how increased — rate in St. Louis.
12. Limitation on municipal indebtedness.
- 12a. Certain cities allowed additional indebtedness for water works and light plants.
13. Private property cannot be sold for municipal debts.
14. Ordinance of 1865 — tax to pay bonded state debt.
15. State funds to be deposited in bank.
16. Treasurer's accounts, quarterly statements.
17. Speculation in public funds prohibited.
18. State board of equalization.
19. Appropriations generally — statement of receipts and expenditures.

SECTION

- 20. Moneys arising from loans, how applied.
- 21. Fees, dues from corporations on their capital stock — exceptions.
- 22. Special road and bridge tax.
- 26. Certificates of indebtedness to school funds.

Section 1. Taxing power, how exercised. — The taxing power may be exercised by the General Assembly for State purposes, and by counties and other municipal corporations, under authority granted to them by the General Assembly, for county and other corporate purposes.

Sect. 2. Power to tax corporations not to be surrendered. — The power to tax corporations and corporate property shall not be surrendered or suspended by act of the General Assembly.

Sect. 3. Taxes for public purposes only — must be uniform. — Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

Sect. 4. Taxes in proportion to value. — All property subject to taxation shall be taxed in proportion to its value.

Sect. 5. Railway corporations — for what purposes — on what property. — All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock.

Sect. 6. Property exempt from taxation. — The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: *Provided*, That such exemptions shall be only by general law.

Sect. 7. Other exemptions void. — All laws exempting property from taxation, other than the property above enumerated, shall be void.

Sect. 8. Rate for State purposes. — The State tax on property, exclusive of the tax necessary to pay the bonded debt of the State, shall not exceed twenty cents on the hundred dollars valuation; and

whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents.

Sect. 9. Liability of municipalities — no commutation. — No county, city, town or other municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

Sect. 10. General Assembly shall not tax for municipal purposes. — The General Assembly shall not impose taxes upon counties, cities, towns or other municipal corporations or upon the inhabitants or property thereof, for county, city, town or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

Sect. 11. Rates for local purposes — limits — how increased for school and erecting public buildings — St. Louis may levy as if part of a county. — Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; but the valuation of property therefor shall not exceed the valuation of the same property in such town, city or school district for State and county purposes. For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. For city and town purposes the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the one hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand inhabitants, or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation. For school purposes in districts composed of cities which have one hundred thousand inhabitants or more, the annual rate on property shall not exceed sixty cents on the hundred dollars valuation and in other districts forty cents on the hundred dollars valuation: *Provided*, The aforesaid annual rates for school purposes may be increased, in districts formed of cities

and towns, to an amount not to exceed one dollar on the hundred dollars valuation, and in other districts to an amount not to exceed sixty-five cents on the hundred dollars valuation, on the condition that a majority of the voters who are tax-payers, voting at an election held to decide the question, vote for said increase. For the purpose of erecting public buildings in counties, cities or school districts, the rate of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city or school district, voting at such election, shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, and the rate allowed to each city or town by the number of inhabitants, according to the last census taken under the authority of the State, or of the United States; said restrictions as to rates shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing, or bonds which may be issued in renewal of such indebtedness: *Provided*, That the city of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if said city were part of a county.

Sect. 12. Municipal indebtedness, limit of — how increased — exceptions as to St. Louis and Kansas City. — No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters thereof voting at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness: *Provided*, That with such assent any county may be allowed to become indebted to a larger amount for the erection of a court house or jail, or for the grading, construction, paving, or maintaining of paved, gravelled, macadamized or rock roads and necessary bridges and culverts therein; *and provided further*, that any county, city, town, township, school district or other political corporation or subdivision of the State, incurring any indebtedness requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an

annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same: *And provided further*, that the corporate authorities of the city of St. Louis are hereby authorized to issue interest-bearing bonds of said city in the amount of five million dollars, at a rate of interest not to exceed four per cent. per annum, the principal payable within thirty years from the date of their issue, and the proceeds thereof shall be paid to the corporation organized for the celebration of the Louisiana purchase centennial in said city, to be used by said corporation for said celebration, in holding a world's fair or exposition in said city. And said corporate authorities of St. Louis shall be repaid as large a proportionate amount of the aid given by them as shall be repaid to the stockholders of said corporation on the sum subscribed and paid by them, and any surplus remaining from the assets of said corporation after said stockholders and said city shall have been paid in full, shall be divided between said stockholders and said city in proportion to the aggregate amount of said stock so paid in and the amount so loaned by said city; and any amount so received by said city from said corporation shall be paid into the sinking fund of said city for the redemption of its outstanding bonds: *Provided*, That if, at the election for the adoption of this amendment to the Constitution, a majority of the votes cast within the limits of said city of St. Louis voting for and against this amendment shall be against its adoption, then no bonds shall be issued under this amendment; *and provided further*, that no such indebtedness so created shall be in any part thereof paid by the State or from any State revenue, tax or fund, but the same shall be paid by the city of St. Louis alone. *Provided*, That in the city of St. Louis the amount of bonds now aggregating \$6,111,000, that being the amount assumed by said city in the scheme of separation from the county of St. Louis, and the sum of \$5,808,000 heretofore prior to January 1, 1901, expended in the construction of waterworks for the city of St. Louis, and any bonds which may be hereafter issued by said city in the construction and improvement of waterworks, the payment of the interest whereon and the principal whereof, shall be provided from the revenues of said waterworks; that is to say, the amount of said bonds which shall be outstanding at any time shall not be included in the computation of the existing bonded indebtedness in determining the amount of bonds authorized to be issued by said city with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds, with the assent aforesaid, to an amount, including outstanding indebtedness, other than

that above named, to the amount of five per cent. of the value of the taxable property in said city, to be ascertained as above provided, and said city shall have power, with such assent of the voters, to issue bonds for the construction and improvement of waterworks, the interest whereon and the principal whereof shall be provided for from the income of said waterworks. Said city shall establish a sinking fund for the payment of the bonds so authorized according to the times fixed from the maturity of the same: *Provided, further*, that in the city of Kansas City, the amount of bonds issued by said city, bearing date July 1, 1895, for acquiring waterworks and all bonds hereafter issued in renewal of said bonds, or any portion thereof, shall not be included in the computation of the existing bonded indebtedness of said city in determining the amount of bonds authorized to be issued by said city, with the assent of two-thirds of the voters under the provisions of this article, but said city shall be authorized at any time to issue bonds with the assent aforesaid, to an amount, including outstanding indebtedness, other than that above named, to the amount of five per centum of the value of the taxable property in said city, to be ascertained as above specified: *Provided, further*, that the provisions of this section shall not apply to counties having cities that now have or which may hereafter have one hundred thousand or more inhabitants; nor to cities that now have or may hereafter have over three hundred thousand inhabitants.

Sect. 12a. Certain cities allowed to incur additional indebtedness for waterworks and light plants. — Any city in this State containing not more than thirty thousand (30,000) nor less than two thousand (2,000) inhabitants may, with the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose, be allowed to become indebted in a larger amount than specified in section twelve of article ten (X) of the Constitution of this State, not exceeding an additional five (5) per centum on the value of the taxable property therein, for the purpose of purchasing or constructing waterworks, electric or other light plants, to be owned exclusively by the city so purchasing or constructing the same: *Provided*, That any such city incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this Constitution, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within twenty years from the time of contracting the same, any provision in this Constitution to the contrary notwithstanding.

Sect. 13. Private property not to be sold for municipal debt. — Private property shall not be taken or sold for the payment of the corporate debt of a municipal corporation.

Sect. 14. Ordinance 1865, tax abolished — tax to pay bonded State debt. — The tax authorized by the sixth section of the ordinance adopted June sixth, one thousand eight hundred and sixty-five, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars; the proceeds of which tax shall be paid into the State treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-two of Article IV of this Constitution. The funds and resources now in the State interest and State sinking funds shall be appropriated to the same purposes; and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed.

Sect. 15. Deposit of State funds by treasurer — how disbursed. — All moneys now, or at any time hereafter, in the State treasury, belonging to the State, shall, immediately on receipt thereof, be deposited by the Treasurer to the credit of the State for the benefit of the funds to which they respectively belong, in such bank or banks as he may, from time to time, with the approval of the Governor and Attorney-General, select, the said bank or banks giving security, satisfactory to the Governor and Attorney-General, for the safe keeping and payment of such deposit, when demanded by the State Treasurer on his check — such bank to pay a bonus for the use of such deposits not less than the bonus paid by other banks for similar deposits; and the same, together with such interest and profits as may accrue thereon, shall be disbursed by said Treasurer for the purposes of the State, according to law, upon warrants drawn by the State Auditor, and not otherwise.

Sect. 16. Treasurer's account — quarterly statements. — The Treasurer shall keep a separate account of the funds, and the number and amount of warrants received, and from whom; and shall publish, in such manner as the Governor may designate, quarterly statements, showing the amount of State moneys and where the same are kept or deposited.

Sect. 17. Officer not to speculate in public funds — felony. — The making of profit out of State, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

Sect. 18. State Board of Equalization — members — duties. — There shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General. The duty of said board shall be to adjust and equalize the valuation of real and personal property among the several counties in the State, and it shall perform such other duties as are or may be prescribed by law.

Sect. 19. Money to be paid as appropriated — limit — how continued — receipts and expenditures. — No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Sect. 20. Money from loans, etc. — how applied by State or municipal corporations. — The moneys arising from any loan, debt or liability, contracted by the State, or any county, city, town or other municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise.

Sect. 21. Corporations — fees to be paid when incorporated or capital stock increased — exceptions — franchises. — No corporation, company or association, other than those formed for benevolent, religious, scientific or educational purposes, shall be created or organized under the laws of this State, unless the persons named as incorporators shall, at or before the filing of the articles of association or incorporation, pay into the State treasury fifty dollars for the first fifty thousand dollars or less of capital stock, and a further sum of five dollars for every additional ten thousand dollars of its capital stock. And no such corporation, company or association shall increase its capital stock without first paying into the treasury five dollars for every ten thousand dollars of increase: *Provided*, That nothing contained in this section shall be construed to prohibit the General Assembly from levying a further tax on the franchises of such corporation.

Sect. 22. Special road and bridge tax. — In addition to taxes authorized to be levied for county purposes under and by virtue of section 11, article 10 of the Constitution of this State, the county court in the

several counties of this State not under township organization, and the township board of directors in the several counties under township organization, may, in their discretion, levy and collect, in the same manner as State and county taxes are collected, a special tax not exceeding twenty-five cents on each one hundred dollars valuation, to be used for road and bridge purposes, but for no other purpose whatever; and the power hereby given said county courts and township boards is declared to be a discretionary power.

Sect. 26. Certificates of indebtedness to school funds confirmed — taxes to pay same. — All certificates of indebtedness of the State to the “ public school fund ” and to the “ seminary fund ” are hereby confirmed as sacred obligations of the State to said funds, and they shall be renewed as they mature for such period of time and at such rate of interest as may be provided for by law. The General Assembly shall have the power to provide by law for the issuing certificates to the public school fund and seminary fund as the money belonging to said funds accumulates in the State treasury: *Provided*, That after the outstanding bonded indebtedness has been extinguished, all money accumulating in the State treasury for above named purposes shall be invested in registered county, municipal or school district bonds of this State of not less than par value. Whenever the State bonded debt is extinguished or a sum sufficient therefor has been received, there shall be levied and collected, in lieu of the ten cents on the one hundred dollars valuation now provided for by the statutes, an annual tax not to exceed three cents on the one hundred dollars valuation, to pay the accruing interest on all the certificates of indebtedness, the proceeds of which tax shall be paid into the State treasury and appropriated and paid out for the specific purposes herein mentioned.

ARTICLE XI.

EDUCATION.

SECTION

1. Free schools for persons between ages of six and twenty years.
2. Custody of school fund — certain districts not entitled to any portion of funds.
3. Schools for colored children.
4. Board of education.
5. State University — curators.
6. Public school fund, how derived.
7. Deficiency in public school fund.
8. County school fund, how derived.
9. Investment of public school fund.
10. Investment of county school fund.
11. Funds shall not be used for religious or sectarian purposes.

Section 1. Free schools — school ages. — A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

Sect. 2. School funds, how disbursed — what districts entitled to. — The income of all the funds provided by the State for the support of free public schools shall be paid annually to the several county treasurers, to be disbursed according to law; but no school district, in which a free public school has not been maintained at least three months during the year for which the distribution is made, shall be entitled to receive any portion of such funds.

Sect. 3. Colored children, separate schools for. — Separate free public schools shall be established for the education of children of African descent.

Sect. 4. Board of education. — The supervision of instruction in the public schools shall be vested in a "Board of Education," whose powers and duties shall be prescribed by law. The Superintendent of Public Schools shall be president of the board. The Governor, Secretary of State and Attorney-General shall be *ex officio* members, and, with the Superintendent, compose said Board of Education.

Sect. 5. State University — curators. — The General Assembly shall, whenever the public school fund will permit and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate.

Sect. 6. Public school fund, from whence derived, not to be diverted. — The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; also, all moneys, stocks, bonds, lands and other property now belonging to any State fund for purposes of education; also, the net proceeds of all sales of lands and other property and effects that may accrue to the State by escheat from unclaimed dividends and distributive shares of the estates of deceased persons; also, any proceeds of the sales of the public lands which may have been or hereafter may be paid over to this State (if Congress will consent to such appropriation); also, all other grants, gifts or devises that have been, or hereafter may be, made to this State and not otherwise appropriated by the State or the terms of the grant, gift or devise, shall be paid into the State treasury, and securely invested

and sacredly preserved as a public school fund; the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever.

Sect. 7. Deficiency, how provided for — minimum from State revenue. — In case the public school fund now provided and set apart by law, for the support of free public schools, shall be insufficient to sustain a free school at least four months in every year in each school district in this State, the General Assembly may provide for such deficiency in accordance with section eleven of the article on revenue and taxation; but in no case shall there be set apart less than twenty-five per cent. of the State revenue, exclusive of the interest and sinking fund, to be applied annually to the support of the public schools.

Sect. 8. County school fund, whence derived. — All moneys, stocks, bonds, lands and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund; the income of which fund shall be faithfully appropriated for establishing and maintaining free public schools in the several counties of this State.

Sect. 9. Public school fund, how invested. — No part of the public school fund of the State shall ever be invested in the stock or bonds or other obligations of any other State, or of any county, city, town or corporation; and the proceeds of the sales of any lands or other property which now belong or may hereafter belong to said school fund shall be invested in the bonds of the State of Missouri, or of the United States.

Sec. 10. County School fund, how invested. — All county school funds shall be loaned only upon unencumbered real estate security of double the value of the loan, with personal security in addition thereto.

Sect. 11. Religious or sectarian schools — public funds not to be paid or property granted to. — Neither the General Assembly nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning

controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any county, city, town or other municipal corporation, for any religious creed, church or sectarian purpose whatever.

ARTICLE XII.

CORPORATIONS.

SECTION

1. Existing unorganized corporations.
2. To be created, etc., by general laws.
3. Forfeited charters.
4. Right of eminent domain — jury trials.
5. Subject to police power of the State.
6. Election of directors — cumulative voting.
7. Not to engage in other business — holding real estate.
8. Increase of stock and indebtedness.
9. Individual liability of stockholders.
10. Preferred stock, how issued.
11. " Corporation " defined.

RAILROADS.

12. Discrimination prohibited — commutation tickets.
13. Construction, connecting with other roads — to receive freight from other roads.
14. Railways are public highways — laws to prevent discrimination.
15. To keep a public office and books — meetings and reports of directors.
16. Property liable to execution.
17. Parallel lines, shall not consolidate nor be managed jointly.
18. Consolidation with foreign companies.
19. Retrospective laws in aid of corporations or imposing a new liability on the people forbidden.
20. Street railroads, franchises.
21. Benefit of future legislation.
22. Officers not to be interested in business of company, nor furnish material.
23. Discrimination between companies and individuals.
24. Granting free passes to public officers prohibited.

BANKS.

25. No state bank shall be created — state shall not own stock in banks.
26. Laws creating banks to be submitted to the people — exception.
27. Receiving deposits after bank is insolvent.

Section 1. Existing charters or grants without validity, when. — All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place, and business been commenced in good faith, at the adoption of this Constitution, shall thereafter have no validity.

Sect. 2. Not to be created by special laws. — No corporation, after the adoption of this Constitution, shall be created by special laws; nor shall any existing charter be extended, changed or amended by special laws, except those for charitable, penal or reformatory purposes, which are under the patronage and control of the State.

Sect. 3. Legislature not to remit forfeited charters. — The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend such forfeited charter, or pass any other general or special laws for the benefit of such corporation.

Sect. 4. Eminent domain, right of State in corporation property — trial. — The exercise of the power and right of eminent domain shall never be so construed or abridged as to prevent the taking, by the General Assembly, of the property and franchises of incorporated companies already organized, or that may be hereafter organized, and subjecting them to the public use, the same as that of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when in the exercise of said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

Sect. 5. Police power of the State. — The exercise of the police power of the State shall never be abridged, or so construed as to permit corporations to conduct their business in such manner as to infringe upon the equal rights of individuals, or the general well-being of the State.

Sect. 6. Election of directors — rights of shareholders — cumulative voting. — In all elections for directors or managers of any incorporated company, each shareholder shall have the right to cast as many votes in the aggregate as shall equal the number of shares so held by him or her in said company, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates; and such directors or managers shall not be elected in any other manner.

Sect. 7. Corporation business limited by charter — power to hold real estate. — No corporation shall engage in business other than that expressly authorized in its charter or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate for any period longer than six years, except such as may be necessary and proper for carrying on its legitimate business.

Sect. 8. Stock and bonded debt, how issued or increased. — No corporation shall issue stock or bonds, except for money paid, labor done or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of

corporations shall not be increased, except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting called for the purpose, first giving sixty days' public notice, as may be provided by law.

Sect. 9. Stockholders, extent of liability. — Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable in any amount over or above the amount of stock owned by him or her.

Sect. 10. Preferred stock, how issued. — No corporation shall issue preferred stock without the consent of all the stockholders.

Sect. 11. Corporation defined. — The term *corporation*, as used in this article, shall be construed to include all joint stock companies or associations having any powers or privileges not possessed by individuals or partnerships.

RAILROADS.

Sect. 12. Discrimination prohibited — commutation tickets. — It shall not be lawful in this State for any railway company to charge for freight or passengers a greater amount, for the transportation of the same, for a less distance than the amount charged for any greater distance; and suitable laws shall be passed by the General Assembly to enforce this provision; but excursion and commutation tickets may be issued at special rates.

Sect. 13. May construct and operate, connect and intersect other lines — interchange of passengers and freight required. — Any railroad corporation or association, organized for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

Sect. 14. Railways public highways — laws against extortion, etc. — Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

Sect. 15. Shall have public office in this State, keep books for public inspection — meetings of directors — reports. — Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and shall report annually, under oath, to the State Auditor, or some officer designated by law, all of their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The General Assembly shall pass laws enforcing, by suitable penalties, the provisions of this section.

Sect. 16. Property subject to execution — no law to be passed exempting. — The rolling stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals; and the General Assembly shall pass no law exempting any such property from execution and sale.

Sect. 17. Shall not consolidate with parallel lines nor have joint officers. — No railroad or other corporation, or the lessees, purchasers or managers of any railroad corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line. The question whether railroads are parallel or competing lines shall, when demanded, be decided by a jury, as in other civil issues.

Sect. 18. Consolidation with foreign companies. — If any railroad company organized under the laws of this State shall consolidate, by sale or otherwise, with any railroad company organized under the laws of any other State, or of the United States, the same shall not thereby become a foreign corporation; but the courts of this State shall retain jurisdiction in all matters which may arise, as if said consolidation had

not taken place. In no case shall any consolidation take place, except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law.

Sect. 19. Retrospective laws in aid of corporations or imposing new liability on the people forbidden. — The General Assembly shall pass no law for the benefit of a railroad or other corporations, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the State a new liability in respect to transactions or considerations already past.

Sect. 20. Street railroad, franchise, how granted and transferred. — No law shall be passed by the General Assembly granting the right to construct and operate a street railroad within any city, town, village, or on any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad; and the franchises so granted shall not be transferred without similar assent first obtained.

Sect. 21. Railroad corporation, benefit of future legislation. — No railroad corporation in existence at the time of the adoption of this Constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this Constitution applicable to railroads.

Sect. 22. Officer of railroad not to be interested in furnishing material or business. — No president, director, officer, agent or employe of any railroad company shall be interested, directly or indirectly, in furnishing material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.

Sect. 23. Discrimination between companies and individuals. — No discrimination in charges or facilities in transportation shall be made between transportation companies and individuals, or in favor of either, by abatement, drawback or otherwise; and no railroad company, or any lessee, manager or employe thereof, shall make any preference in furnishing cars or motive power.

Sect. 24. Free passes, granting to public officers, forfeiture. — No railroad or other transportation company shall grant free passes or tickets, or passes or tickets at a discount, to members of the General Assembly, or members of the Board of Equalization, or any State, or county, or municipal officers; and the acceptance of such pass or ticket, by a member of the General Assembly, or any such officer, shall be a forfeiture of his office.

BANKS.

Sect. 25. State banks and State owning stock in banks forbidden. — No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation, or joint stock company, or association for banking purposes, now created or hereafter to be created.

Sect. 26. Act creating banks to be submitted to the people — exception. — No act of the General Assembly authorizing or creating corporations or associations with banking powers (except banks of deposit or discount), nor amendments thereto, shall go into effect, or in any manner be enforced, unless the same shall be submitted to a vote of the qualified voters of the State, at the general election next succeeding the passage of the same, and be approved by a majority of the votes cast at such election.

Sect. 27. Banks, insolvent, not to receive deposits. — It shall be a crime, the nature and punishment of which shall be prescribed by law, for any president, director, manager, cashier or other officer of any banking institution, to assent to the reception of deposits, or the creation of debts by such banking institution, after he shall have had knowledge of the fact that it is insolvent, or in failing circumstances; and any such officer, agent or manager shall be individually responsible for such deposits so received, and all such debts so created with his assent.

ARTICLE XIII.

MILITIA.

SECTION

1. Persons liable to military duty.
2. Organization of militia.
3. Election of officers.
4. Volunteer companies.
5. Militia privileged from arrest.
6. Appointment of officers by the governor.
7. Public arms and military records.

Section 1. Military duty, persons liable to. — All able-bodied male inhabitants of this State between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become such citizens, shall be liable to military duty in the militia of this State: *Provided*, That no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.

Sect. 2. Militia, organization of. — The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

Sect. 3. Officers, election of. — Each company and regiment shall elect its own company and regimental officers; but if any company or regiment shall neglect to elect such officers within the time prescribed by law, or by the order of the Governor, they may be appointed by the Governor.

Sect. 4. Companies, infantry and cavalry may be formed. — Volunteer companies of infantry, cavalry and artillery may be formed in such manner and under such restrictions as may be provided by law.

Sect. 5. Forces, privileged from arrest, when. — The volunteer and militia forces shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at musters, parades and elections, and in going to and returning from the same.

Sect. 6. Officers, Governor shall appoint. — The Governor shall appoint the Adjutant-General, Quartermaster-General and his other staff officers. He shall also, with the advice and consent of the Senate, appoint all Major Generals and Brigadier Generals.

Sect. 7. Arms and records, State shall keep. — The General Assembly shall provide for the safe keeping of the public arms, military records, banners and relics of the State.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

SECTION

1. Public lands — lands of the United States exempt from taxation — taxing non-residents.
2. Prosecutions for acts done under military authority forbidden.
3. Dueling — the offender cannot hold office.
4. Officers of the United States not eligible to state office.
5. Tenure of office.
6. Oath of office generally.
7. Removal for misdemeanor in office.
8. Fees not to be increased nor term of office extended.
9. Appointment of officers.
10. Lotteries prohibited.
11. Officers having public funds, investigation by grand jury.
12. Legislators privileged from arrest — freedom of debate.

Section 1. Public lands — taxing land of United States and non-residents. — The General Assembly of this State shall never interfere with the primary disposal of the soil by the United States, nor with

any regulation which Congress may find necessary for securing the title in such soil to *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; nor shall lands belonging to persons residing out of the limits of this State ever be taxed at a higher rate than the lands belonging to persons residing within the State.

Sect. 2. Immunity from punishment for acts during Civil War, when. — No person shall be prosecuted in any civil action or criminal proceeding for or on account of any act by him done, performed or executed between the first day of January, one thousand eight hundred and sixty-one, and the twentieth day of August, one thousand eight hundred and sixty-six, by virtue of military authority vested in him, or in pursuance of orders from any person vested with such authority by the government of the United States, or of this State, or of the late Confederate States, or any of them, to do such act. And if any action or proceedings shall have been or shall hereafter be instituted against any person for the doing of any such act, the defendant may plead this section in bar thereof.

Sect. 3. Dueling prohibited. — No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of this State to fight a duel, shall hold any office in this State.

Sect. 4. United States officer not to hold State office. — No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this State.

Sect. 5. Tenure of office. — In the absence of any contrary provision, all officers now or hereafter elected or appointed, subject to the right of resignation, shall hold office during their official terms, and until their successors shall be duly elected or appointed and qualified.

Sect. 6. Oath of office. — All officers, both civil and military, under the authority of this State, shall, before entering on the duties of their respective offices, take and subscribe an oath, or affirmation, to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.

Sect. 7. County, city, etc., officers — removal from office, when. — The General Assembly shall, in addition to other penalties, provide for the removal from office of county, city, town and township officers, on conviction of willful, corrupt or fraudulent violation or neglect of official duty.

Sect. 8. Officers' fees, etc., not to be increased nor term extended. — The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed.

Sect. 9. Appointment of officers. — The appointment of all officers not otherwise directed by this Constitution shall be made in such manner as may be prescribed by law.

Sect. 10. Lotteries prohibited. — The General Assembly shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery, in this State; and all acts or parts of acts heretofore passed by the Legislature of this State, authorizing a lottery or lotteries, and all acts amendatory thereof or supplemental thereto, are hereby avoided.

Sect. 11. Officers having public funds, grand jury to investigate. — It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations, in writing, to the court.

Sect. 12. Members General Assembly not to be arrested, when — freedom of debate. — Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and for fifteen days next before the commencement and after the termination of each session; and for any speech or debate in either house they shall not be questioned in any other place.

ARTICLE XV.

MODE OF AMENDING THE CONSTITUTION.

SECTION

1. Constitution may be amended.
2. Amendments proposed, published and submitted to the people.
3. Convention may be called to revise and amend.

Section 1. Constitution, how amended. — This Constitution may be amended and revised only in pursuance of the provisions of this article.

Sect. 2. General Assembly may propose amendments — how published — submitted to vote. — The General Assembly may, at any time, propose such amendments to this Constitution as a majority of the members elected to each house shall deem expedient; and the vote thereon shall be taken by yeas and nays, and entered in full on the journals. The proposed amendments shall be published with the laws of that session, and also shall be published weekly in some newspaper, if such there be, within each county in the State, for four consecutive weeks next preceding the general election then next ensuing. The

proposed amendments shall be submitted to a vote of the people, each amendment separately, at the next general election thereafter, in such manner as the General Assembly may provide. If a majority of the qualified voters of the State, voting for and against any one of said amendments, shall vote for such amendment, the same shall be deemed and taken to have been ratified by the people, and shall be valid and binding, to all intents and purposes, as a part of this Constitution.

Sect. 3. Constitution, how revised and amended by convention, etc. — The General Assembly may at any time authorize, by law, a vote of the people to be taken upon the question whether a convention shall be held for the purpose of revising and amending the Constitution of this State; and if at such election a majority of the votes on the question be in favor of a convention, the Governor shall issue writs to the sheriffs of the different counties, ordering the election of delegates to such a convention, on a day not less than three and within six months after that on which the said question shall have been voted on. At such election each Senatorial district shall elect two delegates for each Senator to which it may then be entitled in the General Assembly, and every such delegate shall have the qualifications of a State Senator. The election shall be conducted in conformity with the laws regulating the election of Senators. The delegates so elected shall meet at such time and place as may be provided by law, and organize themselves into a convention, and proceed to revise and amend the Constitution; and the Constitution, when so revised and amended, shall, on a day to be therein fixed, not less than sixty days or more than six months after that on which it shall have been adopted by the convention, be submitted to a vote of the people for and against it, at an election to be held for that purpose; and if a majority of all the votes given be in favor of such Constitution, it shall, at the end of thirty days after such election, become the Constitution of this State. The result of such election shall be made known by proclamation by the Governor. The General Assembly shall have no power, otherwise than in this section specified, to authorize a convention for revising and amending the Constitution.

SCHEDULE.

SECTION

1. Provision as to existing laws, rights and actions.
2. Provision as to existing obligations, prosecutions, etc.
3. Existing county and probate courts.
4. Criminal courts.
5. Courts of common pleas.

SECTION

6. Existing officers to continue.
7. Appeals returnable to Jefferson City.
8. Provision for payment of bonded debt.
9. Constitution to be submitted to a vote of the people.
10. Clerks to furnish poll-books and ballots.
11. Form of ballots.
12. Returns of election — proclamation by governor.
13. Result of election — constitution to take effect, when.
14. Schedule to take effect immediately.
15. Laws to enforce constitution.
16. Provision as to existing executive officers.
17. Preliminary examinations and arrests.

Existing laws, rights and actions. — That no inconvenience may arise from the alteration and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

Section 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force until altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in force until the first day of July, one thousand eight hundred and seventy-seven, unless sooner amended or repealed by the General Assembly.

Sect. 2. Existing obligations — criminal proceedings. — That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein; and all fines, taxes, penalties and forfeitures, due or owing to this State, or any such subdivision or municipality; and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

Sect. 3. County and probate courts. — All county and probate courts, as now constituted and organized, shall continue with their

jurisdiction, until the General Assembly shall by law conform them in their organization to the requirements of this Constitution.

Sect. 4. Criminal courts. — All criminal courts organized and existing under the laws of this State, and not specially provided for in this Constitution, shall continue to exist until otherwise provided by law.

Sect. 5. Courts of common pleas. — All courts of common pleas existing and organized in cities and towns having a population exceeding three thousand five hundred inhabitants, and such as by the law of their creation are presided over by a judge of a circuit court, shall continue to exist and exercise their present jurisdiction until otherwise provided by law. All other courts of common pleas shall cease to exist at the expiration of the present terms of office of the several judges thereof.

Sect. 6. Persons now in office. — All persons now filling any office or appointment in this State shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless otherwise provided by law.

Sect. 7. Appeals and writs of error. — Upon the adoption of this Constitution, all appeals to and writs of error from the Supreme Court shall be returnable to the Supreme Court at the City of Jefferson.

Sect. 8. Bonded debt — payment of. — Until the General Assembly shall make provision for the payment of the State and railroad indebtedness of this State, in pursuance of section fourteen of article X of this Constitution, there shall be levied and collected an annual tax of one-fifth of one per centum on all real estate and other property and effects subject to taxation, the proceeds of which shall be applied to the payment of the interest on the bonded debt of this State as it matures, and the surplus, if any, shall be paid into the sinking fund and thereafter applied to the payment of such indebtedness, and to no other purpose.

Sect. 9. Election for adoption or rejection of this Constitution. — This Constitution shall be submitted to the people of this State for adoption or rejection, at an election to be held for that purpose only, on Saturday, the thirtieth day of October, one thousand eight hundred and seventy-five. Every person entitled to vote under the Constitution and laws of this State shall be entitled to vote for the adoption or rejection of this Constitution. Said election shall be held and said qualified electors shall vote at the usual places of voting in the several counties of this State; and said election shall be conducted and returns thereof made according to the laws now in force regulating general elections.

Sect. 10. Poll-books, ballots, etc. — The clerks of the several county courts in this State shall, at least five days before said election, cause to be delivered to the judges of election in each election district or precinct in their respective counties, suitable blank poll-books, forms of return and five times the number of properly prepared printed ballots for said election that there are voters in said respective districts, the expense whereof shall be allowed and paid by the several county courts, as other county expenditures are allowed and paid.

Sect. 11. Ballots, form of. — At said election the ballots shall be in the following form: New Constitution ticket (*erase the clause you do not favor*). New Constitution, — Yes. New Constitution, — No. Each of said tickets shall be counted as a vote for or against this Constitution, as the one clause or the other may be canceled with ink or pencil by the voter, and returns thereof shall be made accordingly. If both clauses of the ticket be erased, or if neither be erased, the ticket shall not be counted.

Sect. 12. Returns of election — proclamation by Governor. — The returns of the whole vote cast for the adoption and against the adoption of this Constitution shall be made by the several clerks, as now provided by law in case of the election of State officers, to the Secretary of State, within twenty days after the election; and the returns of said votes shall, within ten days thereafter, be examined and canvassed by the State Auditor, State Treasurer and Secretary of State, or any two of them, in the presence of the Governor, and proclamation shall be made by the Governor forthwith of the result of the canvass.

Sect. 13. Result of election — Constitution to take effect, when. — If, upon such canvass, it shall appear that a majority of the votes polled were in favor of the new Constitution, then this Constitution shall, on and after the thirtieth day of November, one thousand eight hundred and seventy-five, be the supreme law of the State of Missouri, and the present existing Constitution shall thereupon cease in all its provisions; but if it shall appear that a majority of the votes polled were against the new Constitution, then this Constitution shall be null and void, and the existing Constitution shall continue in force.

Sect. 14. Schedule to take effect, when. — The provisions of this schedule required to be executed prior to the adoption or rejection of this Constitution, shall take effect and be in force immediately.

Sect. 15. Laws to enforce Constitution. — The General Assembly shall pass all such laws as may be necessary to carry this Constitution into full effect.

Sect. 16. Existing executive officers, provisions as to. — The present Secretary of State, State Auditor, Attorney-General and Super-

intendent of Public Schools shall, during the remainder of their terms of office, unless otherwise directed by law, receive the same compensation and fees as is now provided by law; and the present State Treasurer shall, during the remainder of the term of his office, continue to be governed by existing law, in the custody and disposition of the State funds, unless otherwise directed by law.

Sect. 17. Arrests and preliminary examinations. — Section twelve of the Bill of Rights shall not be so construed as to prevent arrests and preliminary examination in any criminal case.

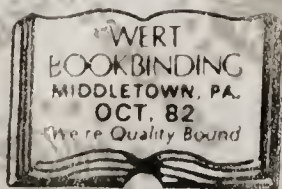
Done in Convention, at the Capitol, in the City of Jefferson, on the second day of August, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the one hundredth.

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